

Bellingen Local Environmental Plan 2003

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New South Wales

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New South Wales

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Bellingen Local Environmental Plan 2003



New South Wales

Part 1 Preliminary

1 Name of plan

This plan is *Bellingen Local Environmental Plan 2003*.

2 Aims of plan

- (1) The principal aim of this plan is to encourage development in the Bellingen local government area which is designed and carried out in a way that respects the environmental quality and capacity of the land and the needs of the community.
- (2) The objectives of this plan are:
 - (a) to identify and protect good agricultural land and to discourage land uses which jeopardise the potential of the land for agricultural purposes, and
 - (b) to encourage forms of development that minimise risks to sensitive environments, including wetlands, coastal systems, wooded slopes, ridge lines, scenic areas, river systems (including the mitigation of river bank failure, erosion or accretion) and other similar resources, and
 - (c) to encourage and support environmental restoration and enhancement and, in particular, the removal of weeds and the protection of riparian areas, and
 - (d) to protect water quality and habitat values, and
 - (e) to limit the development of land adversely affected by flooding, soil erosion, landslip or bush fire, and
 - (f) to provide for the protection of items of environmental heritage and historic importance (including the Bellingen town centre) and to guide the restoration of any items of environmental heritage that may from time to time be identified, including Aboriginal relics and places of significance, and
 - (g) to accommodate development which will both directly and indirectly increase job opportunities for the residents of the Bellingen local government area in

appropriate locations, and

- (h) to encourage a range of tourism activities and facilities that will complement the existing natural and human-influenced features of the area without degrading important environmental or agricultural features or the elements of the character and environmental quality of the area that are attractive to tourists and residents, and
- (i) to enable development for residential purposes that maximises housing choice (in terms of dwelling types and costs and different lifestyles) and the use of existing physical and social infrastructure and minimises development costs, and
- (j) to encourage a type and intensity of development appropriate for the location and in a sequence that maximises the efficiency and minimises the cost of providing transport, utility and community services, and
- (k) to provide opportunities for public and private recreation facilities associated with tourist and local resident needs, and
- (l) in relation to land at Urunga generally bounded by Hillside Drive, the Pacific Highway, the South Pacific Ocean and Hungry Head Road:
 - (i) to provide opportunities for the staged expansion of residential and rural residential development at Urunga, and
 - (ii) to encourage a range and choice of housing types and densities, and
 - (iii) to enable the provision of public and private services and amenities to meet the needs of an increased population, and
 - (iv) to encourage development related to tourism and recreation in a manner that complements the lifestyle and living environment for permanent residents, and
 - (v) to ensure that development is carried out in a manner which minimises risks of pollution, siltation or other degradation of significant wetlands, Urunga Lagoon and coastal ecosystems, and
 - (vi) to maximise the retention of existing vegetation in any development, and
 - (vii) to preserve wildlife habitat.

3 Land to which plan applies

This plan applies to all land within the local government area of Bellingen.

4 Relationship to other environmental planning instruments

- (1) This plan repeals *Bellingen Local Environmental Plan 1990*.

(2) This plan amends:

- (a) *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development* by inserting in Schedule 2 in alphabetical order “Bellingen local government area”, and
- (b) *State Environmental Planning Policy No 60—Exempt and Complying Development* by deleting from Part 2 of Schedule 1 the matter “Bellingen”.

5 Definitions

(1) Expressions used in this plan that are defined in the Dictionary at the end of this plan have the meanings set out in the Dictionary.

(2) In this plan, a reference to:

- (a) a building or place used for a purpose includes a reference to a building or place intended to be used for the purpose, and
- (b) a map or plan is a reference to a map or plan deposited in the office of the Council, and
- (c) land within a zone specified in the Table to clause 11 is a reference to land shown on the map in the manner indicated in clause 10 as the means of identifying land of the zone so specified.

(3) Notes in this plan and the list of its contents do not form part of this plan.

6 Consent authority

The Council is the consent authority for the purposes of this plan, subject to the Act.

7 What is exempt development?

Development listed in Schedule 1 is exempt development if it is of minimal environmental impact and it satisfies all of the following:

- (a) it is carried out on land that:
 - (i) is not State forest within the meaning of the *Forestry Act 1916*, and
 - (ii) is not reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna or geological formations or for other environmental protection purposes, and
 - (iii) is not an aquatic reserve declared under the *Fisheries Management Act 1994*, and
 - (iv) is not a marine park declared under the *Marine Parks Act 1997*, and
 - (v) is not dedicated or reserved under the *National Parks and Wildlife Act 1974*, and

- (vi) is not itself, and is not within, a wilderness area within the meaning of the *Wilderness Act 1987*, and
- (vii) is not critical habitat within the meaning of the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*, and
- (viii) is not land to which *State Environmental Planning Policy No 14—Coastal Wetlands* applies, and
- (ix) is not land to which *State Environmental Planning Policy No 26—Littoral Rainforests* applies, and
- (x) is not within Zone No 7 (a) or 7 (f), and
- (xi) is not subject to an interim order under the *Heritage Act 1977*, or listed on the State Heritage Register under that Act, and
- (xii) is not identified by the *National Parks and Wildlife Act 1974* as an Aboriginal place and does not contain an Aboriginal relic, and
- (xiii) is not land to which clause 21 applies, and
- (xiv) is not subject to subsidence, slip or erosion, and
- (xv) is not contaminated, and
- (xvi) is not a site that has previously been used:
 - (A) as a service station, or
 - (B) as a sheep or cattle dip, or
 - (C) for intensive agriculture, or
 - (D) for mining or extractive industry, or
 - (E) for waste storage or waste treatment, or
 - (F) for the manufacture of chemicals, asbestos or asbestos products,unless a notice of completion of remediation work for the proposed use has been given to the Council in accordance with *State Environmental Planning Policy No 55—Remediation of Land*, and
- (b) it does not cause interference with the amenity of the neighbourhood because of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil or otherwise, and
- (c) it complies with any deemed-to-satisfy provisions of the *Building Code of Australia* relevant to the development, and

- (d) it complies with:
 - (i) any relevant standards and other requirements specified for the development in Schedule 1, and
 - (ii) any other relevant requirements and standards in any other environmental planning instrument or development control plan applying to the land on which it is carried out, and
- (e) it does not contravene any condition of a development consent or any provision of an approval under the *Local Government Act 1993* that is in force, and
- (f) it does not adversely affect drainage of the site on which it is carried out, and
- (g) it does not restrict any vehicular or pedestrian access to or from the site, and
- (h) it is carried out at least 1 metre from any easement or public sewer main and it complies with any building-over-sewer requirements of the Council, and
- (i) any structures involved do not encroach on any registered easement other than one that permits the particular structure or work, and
- (j) it does not involve works requiring consent under clause 20, and
- (k) it does not involve damage to vegetation, where that damage requires consent and that consent has not been obtained, and
- (l) a minimum of 35% of the site is reserved for soft landscaping, and
- (m) it does not involve changes to an existing, or installation of a new, effluent disposal system or sewer connection, and
- (n) it does not affect landscaping required by, or vegetation required to be retained by, a development consent, and
- (o) it does not constitute any building or other work within the dripzone of a tree, and
- (p) it is consistent with any plan of management approved under *State Environmental Planning Policy No 44—Koala Habitat Protection* and with any recovery plan or threat abatement plan in force under the *Threatened Species Conservation Act 1995* that applies to the land, and
- (q) it does not involve alteration of natural ground levels in excess of 1 metre, and
- (r) it does not hamper the effectiveness of an asset protection zone.

8 What is complying development?

- (1) Development listed in Schedule 2 is complying development if it satisfies all of the

following:

- (a) it is development of a kind that can be carried out with development consent on the land on which it is proposed and the development is not:
 - (i) State significant development, or
 - (ii) designated development, or
 - (iii) development for which development consent cannot be granted except with the concurrence of a person other than:
 - (A) the Council, or
 - (B) the Director-General of National Parks and Wildlife as referred to in section 79B (3) of the Act, or
 - (iv) associated with an existing use, as defined in section 106 of the Act, and
- (b) no draft environmental planning instrument contains provisions relating to that development that are more restrictive than the provisions under this plan, and
- (c) it is carried out on land that:
 - (i) is not State forest within the meaning of the *Forestry Act 1916*, and
 - (ii) is not reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna or geological formations or for other environmental protection purposes, and
 - (iii) is not an aquatic reserve declared under the *Fisheries Management Act 1994*, and
 - (iv) is not a marine park declared under the *Marine Parks Act 1997*, and
 - (v) is not dedicated or reserved under the *National Parks and Wildlife Act 1974*, and
 - (vi) is not itself, and is not within, a wilderness area within the meaning of the *Wilderness Act 1987*, and
 - (vii) is not State protected land within the meaning of the *Native Vegetation Conservation Act 1997*, and
 - (viii) is not critical habitat within the meaning of the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*, and
 - (ix) is not land to which *State Environmental Planning Policy No 14—Coastal Wetlands* applies, and

- (x) is not land to which *State Environmental Planning Policy No 26—Littoral Rainforests* applies, and
- (xi) is not within Zone No 7 (a), 7 (f) or 7 (s), and
- (xii) is not a heritage item, the site of a heritage item or within a conservation area, and
- (xiii) is not subject to an interim order under the *Heritage Act 1977*, or listed on the State Heritage Register under that Act, and
- (xiv) is not identified by the *National Parks and Wildlife Act 1974* as an Aboriginal place and does not contain an Aboriginal relic, and
- (xv) is not land to which clause 21 applies, and
- (xvi) is not flood liable land, and
- (xvii) is not subject to subsidence, slip or erosion, and
- (xviii) is not within a high or moderate bush fire hazard class as determined by a bush fire risk management plan prepared under section 52 of the *Rural Fires Act 1997*, and
- (xix) is not contaminated, and
- (xx) is not a site that has previously been used:
 - (A) as a service station,
 - (B) as a sheep or cattle dip,
 - (C) for intensive agriculture,
 - (D) for mining or extractive industry,
 - (E) for waste storage or waste treatment,
 - (F) for the manufacture of chemicals, asbestos or asbestos products,unless a notice of completion of remediation work for the proposed use has been given to the Council in accordance with *State Environmental Planning Policy No 55—Remediation of Land*, and
- (d) it complies with any deemed-to-satisfy provisions of the *Building Code of Australia* relevant to the development, and
- (e) it complies with:
 - (i) the development standards and other requirements specified for the

development in Schedule 2, and

- (ii) any other development standards specified for the development in any environmental planning instrument or development control plan applying to the land on which it is carried out, and
 - (f) it achieves the relevant outcomes specified for the development in Schedule 3, and
 - (g) no environmental planning instrument applying to the land states that the adequacy of an acid sulfate soils management plan for the development must be considered before consent can be granted for it, and
 - (h) it does not contravene any condition of a development consent or any provision of an approval under the *Local Government Act 1993* that is in force, and
 - (i) a certificate of compliance has been obtained for the development, if required, from the water and sewerage authority, and
 - (j) it is carried out at least 1 metre from any easement or public sewer main and complies with any building-over-sewer requirements of the Council, and
 - (k) it does not involve works requiring consent under clause 20, and
 - (l) it does not require damage to vegetation, where that damage requires consent and that consent has not been obtained, and
 - (m) it does not constitute any building or other work within the dripzone of a tree, and
 - (n) it is consistent with any plan of management approved under *State Environmental Planning Policy No 44—Koala Habitat Protection*, and with any recovery plan or threat abatement plan in force under the *Threatened Species Conservation Act 1995* that applies to the land, and
 - (o) it does not hamper the effectiveness of an asset protection zone.
- (2) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in Schedule 4.

9 What development is not restricted or prohibited by this plan

Nothing in this plan restricts or prohibits, or enables the consent authority to restrict or prohibit:

- (a) the carrying out of development described in Schedule 5, or
- (b) the use of existing buildings of the Crown by the Crown.

Part 2 Zoning controls

10 Zones indicated on the map

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

- Zone No 1 (a1) (Agricultural Protection Zone)
- Zone No 1 (a2) (Secondary Agriculture Zone)
- Zone No 1 (c1) (Rural Residential Zone)
- Zone No 1 (c2) (Rural Small Holdings Zone)
- Zone No 1 (c3) (Rural Settlement Zone)
- Zone No 1 (d) (Investigation Zone)
- Zone No 1 (f) (Forestry Zone)
- Zone No 2 (a) (Residential Zone)
- Zone No 2 (b) (Village Area Zone)
- Zone No 3 (Business Zone)
- Zone No 4 (Industrial Zone)
- Zone No 5 (Special Uses Zone)
- Zone No 6 (a) (Public Recreation Zone)
- Zone No 6 (b) (Private Recreation Zone)
- Zone No 7 (a) (Environmental Protection (Wetlands) Zone)
- Zone No 7 (f) (Environmental Protection (Coastal Land) Zone)
- Zone No 7 (s) (Special Emphasis Zone)
- Zone No 8 (National Parks and Nature Reserves Zone)
- Zone No 9 (Proposed Road Zone)

11 Zone objectives and development control table

- (1) In each zone the development controls are divided into items, the effect of which is as follows:

Item 1 (Zone objectives) provides the main direction for development in the zone.

Item 2 (Without development consent) specifies development that may be carried out in the zone without consent.

Item 3 (Exempt development) describes exempt development that may be carried out in the zone without consent or assessment under the Act.

Item 4 (Only with development consent) specifies development that may be carried out in the zone only with development consent.

Item 5 (Prohibited) specifies development that is prohibited in the zone.

Item 6 (Zone specific development controls and special matters for consideration) contains references to specific controls on, and matters to be considered by, the consent authority before granting development consent to certain development in the zone, in addition to the more general requirements of this plan and considerations prescribed in section 79C of the Act. Any error in (including any omission from) this item does not alter the effect of any specific control or matter.

- (2) Except where otherwise expressly provided by this plan, consent must not be granted to development unless the consent authority has considered the objectives of this plan and the objectives of the zone in which the land is situated and is of the opinion that the development is not inconsistent with those objectives.

Table

Note—

The Act, other environmental planning instruments and other clauses of this plan specify requirements for development in addition to those described in this Table. You should ensure that you have considered and will comply with all relevant controls on development before undertaking any work or activity in the Bellingen local government area.

Zone No 1 (a1) (Agricultural Protection Zone)

1 Zone objectives

The objectives of this zone are:

- (a) to protect and conserve the productive potential of agricultural land, and
- (b) to encourage the productive and efficient use of land for agricultural purposes, and
- (c) to control subdivision of land having regard to the efficient use of the land for agricultural purposes, and
- (d) to enable other forms of development associated with rural activity to be

carried out where they are in keeping with the rural character of the area and where they minimise potential interference with the agricultural use of the land, and

- (e) to prevent development of inappropriate traffic-generating uses along main road frontages, and
- (f) to prevent development that is inappropriate, having regard to the risks of bush fire, flooding, soil erosion, land instability, quality of access and the provision of utility services and community facilities, and
- (g) to protect the natural and scenic resources of the Bellingen local government area.

2 Without development consent

Development for the purpose of:

agriculture (not including activities involving the erection of a building or damage to vegetation that are not exempt development)

forestry

3 Exempt development

As specified in clause 7.

4 Only with development consent

Any development not included in Item 2, 3 or 5.

5 Prohibited

Development for the purpose of:

boarding-houses

bulk stores (other than those associated with agriculture)

car repair stations

clubs

commercial premises

exhibition homes

health consulting rooms
hospitals
hotels
institutions
junk yards
liquid fuel depots
motels
motor showrooms
professional consulting rooms
public buildings
recreation facilities
refreshment rooms
residential flat buildings
service stations
shops (other than general stores)
taverns
total destination resorts
transport terminals
units for aged persons
vehicle body repair workshops
warehouses

6 Zone specific development controls and special matters for consideration

general principles for rural development—see clause 26

dwellings—see clause 50

subdivision—see clause 43

tourist facilities—see clause 28

industries and rural enterprises in rural areas—see clause 39

development within the vicinity of Dorrigo—see clause 40

Zone No 1 (a2) (Secondary Agriculture Zone)

1 Zone objectives

The objectives of this zone are:

- (a) to enable the continuation of traditional forms of rural land use and occupation, and
- (b) to ensure that any development is of a type and intensity that is appropriate to the characteristics of the land, the rural environment, the standard of public services and amenities available to the development and the costs of upgrading those services, and
- (c) to ensure that development is carried out in a manner that does not adversely affect water quality, and
- (d) to prevent development that is inappropriate, having regard to the risks of bush fire, flooding, soil erosion, land instability, quality of access and the provision of utility services and community facilities, and
- (e) to protect the natural and scenic resources of the Bellingen local government area.

2 Without development consent

Development for the purpose of:

agriculture (not including activities involving the erection of a building or damage to vegetation that are not exempt development)

forestry

3 Exempt development

As specified in clause 7.

4 Only with development consent

Any development not included in Item 2, 3 or 5.

5 Prohibited

Development for the purpose of:

- boarding-houses
- bulk stores (other than those associated with agriculture)
- car repair stations
- commercial premises
- exhibition homes
- health consulting rooms
- hotels
- junk yards
- liquid fuel depots
- motor showrooms
- professional consulting rooms
- public buildings
- residential flat buildings
- shops (other than general stores or produce stores)
- total destination resorts
- transport terminals
- units for aged persons
- vehicle body repair workshops
- warehouses

6 Zone specific development controls and special matters for

consideration

general principles for rural development—see clause 26

dwellings—see clause 50

subdivision—see clause 43

industries and rural enterprises in rural areas—see clause 39

Zone No 1 (c1) (Rural Residential Zone)

1 Zone objectives

The objectives of this zone are:

- (a) to enable appropriately staged development in the form of small holdings, small farms or rural residential development to be carried out on land which is suitable for that development, and
- (b) to enable other forms of development to be carried out if they are in keeping with the rural character of the locality and compatible with existing or likely future small holdings, small farms and rural residential development, and
- (c) to ensure that the type and intensity of development is appropriate in relation to the characteristics of the land and the rural environment and the cost of providing a satisfactory level of public services and amenities, and
- (d) to contribute to a range of rural lifestyle opportunities.

2 Without development consent

Development for the purpose of agriculture (not including activities involving the erection of a building or damage to vegetation that are not exempt development).

3 Exempt development

As specified in clause 7.

4 Only with development consent

Development for the purpose of:

agriculture (not including agriculture allowed without development

consent)

animal boarding establishments

animal establishments

attached dual occupancies

bush fire fighting establishments

bush fire hazard reduction works

cemeteries

child care centres

community centres

community facilities

damage to vegetation

dwellings

educational establishments

environmental restoration works

forestry

general stores

health consulting rooms

home industries

hospitals

picnic areas and lookouts

places of public worship

professional consulting rooms

public buildings

reception establishments

recreation establishments

recreation facilities
retail plant nurseries
roads
roadside stalls
rural industries
tourist facilities
utility installations
veterinary surgeon's establishments

Demolition

Subdivision

5 Prohibited

Any development not included in Item 2, 3 or 4.

6 Zone specific development controls and special matters for consideration

general principles for rural development—see clause 26

dwellings—see clause 50

subdivision—see clause 44

subdivision of land within an excluded area—see clause 47

subdivision of land on Newry Island—see clause 45

Zone No 1 (c2) (Rural Small Holdings Zone)

1 Zone objectives

The objectives of this zone are:

- (a) to provide the opportunity for closer rural settlement and tourist development in appropriate parts of the Bellingen local government area, and
- (b) to maximise housing choice, and

- (c) to encourage a type and intensity of development that does not create unreasonable or uneconomic demands, or both, for the provision or extension of public amenities or services, including road access, and
- (d) to ensure that any development maintains the rural character of the locality, and
- (e) to prevent development of inappropriate traffic-generating uses along main road frontages, and
- (f) to prevent development that is inappropriate, having regard to the risks of bush fire, flooding, soil erosion, land instability, quality of access and the provision of utility services and community facilities, and
- (g) to protect the natural and scenic resources of the Bellingen local government area.

2 Without development consent

Development for the purpose of agriculture (not including activities involving the erection of a building or damage to vegetation that are not exempt development).

3 Exempt development

As specified in clause 7.

4 Only with development consent

Any development not included in Item 2, 3 or 5.

5 Prohibited

Development for the purpose of:

boarding-houses

bulk stores (other than those associated with agriculture)

car repair stations

commercial premises

exhibition homes

institutions

junk yards

liquid fuel depots

motor showrooms

public buildings

residential flat buildings

shops (other than general stores or produce stores)

total destination resorts

vehicle body repair workshops

warehouses

6 Zone specific development controls and special matters for consideration

general principles for rural development—see clause 26

dwellings—see clause 50

subdivision—see clause 46

subdivision of land within an excluded area—see clause 47

industries and rural enterprises in rural areas—see clause 39

Zone No 1 (c3) (Rural Settlement Zone)

1 Zone objectives

The objectives of this zone are:

- (a) to encourage rural settlement in locations where existing services and facilities can be efficiently utilised, and
- (b) to reinforce the existing hierarchy of services and functions within the Bellingen local government area, and
- (c) to encourage integrated rural settlement to avoid environmental damage, maintain the traditional rural landscape and maintain the viability of the existing infrastructure throughout the Bellingen local government area, and

- (d) to provide the opportunity for closer rural settlement and tourist development in appropriate locations, and
- (e) to maximise housing choice, and
- (f) to encourage a type and intensity of development that does not create unreasonable or uneconomic demands, or both, for the provision or extension of public amenities or services, including road access, and
- (g) to ensure that any development maintains the rural character of the locality, and
- (h) to prevent development of inappropriate traffic-generating uses along main road frontages, and
- (i) to prevent development that is inappropriate, having regard to the risks of bush fire, flooding, soil erosion, land instability, quality of access and the provision of utility services and community facilities, and
- (j) to protect the natural and scenic resources of the Bellingen local government area.

2 Without development consent

Development for the purpose of agriculture (not including activities involving the erection of a building or damage to vegetation that are not exempt development).

3 Exempt development

As specified in clause 7.

4 Only with development consent

Any development not included in Item 2, 3 or 5.

5 Prohibited

Development for the purpose of:

boarding-houses

bulk stores (other than those associated with agriculture)

car repair stations

commercial premises

institutions

junk yards

liquid fuel depots

motor showrooms

public buildings

residential flat buildings

shops (other than general stores or produce stores)

total destination resorts

vehicle body repair workshops

warehouses

6 Zone specific development controls and special matters for consideration

general principles for rural development—see clause 26

dwellings—see clause 50

subdivision—see clause 48

industries and rural enterprises in rural areas—see clause 39

Zone No 1 (d) (Investigation Zone)

1 Zone objectives

The objectives of this zone are:

- (a) to indicate areas that may be identified as suitable for future urban expansion after further investigation, and
- (b) to ensure that development within this zone is compatible with and does not frustrate future development of the land.

2 Without development consent

Development for the purpose of agriculture (not including activities involving

the erection of a building or damage to vegetation that are not exempt development).

3 Exempt development

As specified in clause 7.

4 Only with development consent

Development for the purpose of:

agriculture (not including agriculture allowed without development consent)

animal boarding establishments

animal establishments

attached dual occupancies

bush fire fighting establishments

bush fire hazard reduction works

damage to vegetation

dwellings

environmental restoration works

forestry

industries

rural enterprises

utility installations

Demolition

Subdivision

5 Prohibited

Any development not included in Item 2, 3 or 4.

6 Zone specific development controls and special matters for

consideration

general principles for rural development—see clause 26

dwellings—see clause 50

subdivision—see clause 43

industries and rural enterprises in rural areas—see clause 39

Zone No 1 (f) (Forestry Zone)

1 Zone objectives

The objective of this zone is to make provision for all State forests within which forestry activities do not require development consent.

2 Without development consent

Any development authorised by or under the *Forestry Act 1916* and any ancillary or incidental development.

3 Exempt development

As specified in clause 7.

4 Only with development consent

Development (not included in Item 2 or 3) for the purpose of:

- agriculture
- damage to vegetation
- drainage
- environmental restoration works
- extractive industries
- industries
- lookouts
- mines
- parking areas
- public utility undertakings

recreation establishments

refreshment rooms

roads

sawmills

tourist facilities

Demolition

Subdivision

5 Prohibited

Any development not included in Item 2, 3 or 4.

6 Zone specific development controls and special matters for consideration

Nil.

Zone No 2 (a) (Residential Zone)

1 Zone objectives

The objectives of this zone are:

- (a) to identify suitable lands to be used for the purposes of housing and associated facilities, and
- (b) to encourage a range of housing types in appropriate locations and at densities compatible with surrounding residential uses, and
- (c) to enable development providing services to surrounding residential areas only if it is compatible with the character of the living area, and
- (d) to ensure that the height and scale of buildings are compatible with a normal detached dwelling character.

2 Without development consent

Nil.

3 Exempt development

As specified in clause 7.

4 Only with development consent

Any development not included in Item 2, 3 or 5.

5 Prohibited

Development for the purpose of:

- abattoirs
- animal boarding establishments
- animal establishments
- bulk stores
- car repair stations
- clubs
- commercial premises
- forestry
- generating works
- heliports
- hotels
- industries (other than home industries)
- institutions
- junk yards
- liquid fuel depots
- mines
- motor showrooms
- places of assembly
- roadside stalls
- sawmills
- shops (other than general stores)

stock and sale yards
transport terminals
vehicle body repair workshops
warehouses

6 Zone specific development controls and special matters for consideration

Nil.

Zone No 2 (b) (Village Area Zone)

1 Zone objectives

The objectives of this zone are:

- (a) to make provision for certain suitable lands to be used for urban purposes, and
- (b) to encourage a range of housing types in appropriate locations, and
- (c) to enable development for retail, commercial and service purposes for the local and nearby rural community in appropriate locations where the scale and type of development is compatible with living areas, and
- (d) to recognise existing villages and to enable future development appropriate to their function, and
- (e) to preserve and enhance the local character and identity of villages within the Bellingen local government area, and
- (f) to provide for a range of development appropriate to the needs of a village community.

2 Without development consent

Nil.

3 Exempt development

As specified in clause 7.

4 Only with development consent

Any development not included in Item 2, 3 or 5.

5 Prohibited

Development for the purpose of:

- abattoirs
- animal boarding establishments
- animal establishments
- institutions
- junk yards
- liquid fuel depots
- mines
- offensive or hazardous industries
- sawmills
- stock and sale yards

6 Zone specific development controls and special matters for consideration

subdivision of certain land within South Urunga—see clause 49

Zone No 3 (Business Zone)

1 Zone objectives

The objectives of this zone are:

- (a) to encourage the development and expansion of business activities which will contribute to economic growth and employment opportunities within the Bellingen local government area, and
- (b) to facilitate the establishment of retail, commercial and professional services to meet the needs of the community and which are compatible with the surrounding environment, and
- (c) to provide for forms of business activities normally located on the fringe

of the central business area, and

- (d) to facilitate the establishment of services required by the travelling public and the tourist industry and for the development of facilities for refreshment, accommodation, recreation and amusement, and
- (e) to permit non-commercial development where such development is compatible with the commercial character of the locality, and
- (f) to encourage development which enhances the historic character of the Bellingen business centre.

2 Without development consent

Nil.

3 Exempt development

As specified in clause 7.

4 Only with development consent

Any development not included in Item 2, 3 or 5.

5 Prohibited

Development for the purpose of:

- abattoirs
- animal boarding establishments
- animal establishments
- caravan parks
- exhibition homes
- extractive industries
- generating works
- heliports
- hospitals
- industries (other than light industries and home industries)

institutions

junk yards

mines

recreation establishments

residential flat buildings (other than those containing commercial premises or shops)

roadside stalls

sawmills

stock and sale yards

transport terminals (other than bus stations and bus depots)

6 Zone specific development controls and special matters for consideration

Nil.

Zone No 4 (Industrial Zone)

1 Zone objectives

The objectives of this zone are:

- (a) to encourage development of land for the purpose of industry within convenient distances of the urban centres of the Bellingen local government area and with good access to major arterial roads, and
- (b) to enable certain other forms of development compatible with or ancillary to the industrial use of land, such as warehousing, transport and servicing, and
- (c) to provide opportunities for non-industrial commercial activities that may reasonably be located in an industrial zone.

2 Without development consent

Nil.

3 Exempt development

As specified in clause 7.

4 Only with development consent

Development for the purpose of:

agriculture

animal boarding establishments

animal establishments

buildings, works and land uses that are associated with, ancillary to, dependent on or which provide services to industries or other development permitted in the zone or people employed in those industries or that other development (not including residential accommodation)

bulk stores

bus depots

bush fire fighting establishments

bush fire hazard reduction works

car repair stations

clubs

damage to vegetation

emergency services

environmental restoration works

generating works

industries

junk yards

liquid fuel depots

motor showrooms

public utility undertakings

recreation areas

road transport terminals

sawmills

service stations

transport terminals

utility installations

vehicle body repair workshops

warehouses

works depots

Demolition

Subdivision

5 Prohibited

Development not included in Item 2, 3 or 4.

6 Zone specific development controls and special matters for consideration

Nil.

Zone No 5 (Special Uses Zone)

1 Zone objectives

The objective of this zone is to identify land used for key public purposes, community purposes and purposes incidental to those purposes.

2 Without development consent

Development for the purpose of agriculture (not including activities involving the erection of a building or damage to vegetation that are not exempt development)

3 Exempt development

As specified in clause 7.

4 Only with development consent

Development for the purpose of:

agriculture (not including agriculture allowed without development consent)

bush fire hazard reduction works

damage to vegetation

the particular building, work, place or use indicated on the map

environmental restoration works

signs

Demolition

Subdivision

5 Prohibited

Any development not included in Item 2, 3 or 4.

6 Zone specific development controls and special matters for consideration

Nil.

Zone No 6 (a) (Public Recreation Zone)

1 Zone objectives

The objectives of this zone are:

- (a) to provide a range of open space and recreational land to meet the needs of the community for public recreation, and
- (b) to allow for the provision of suitable facilities to enhance the use and enjoyment of open space areas while ensuring that any development:
 - (i) promotes or is related to the use and enjoyment of open space, and

(ii) does not substantially diminish public use of or access to open space,
and

(iii) does not adversely affect the natural environment, any items or
areas of heritage significance or the existing amenity of the area.

2 Without development consent

Development for the purpose of:

works (but not buildings) involved in landscaping or gardening

3 Exempt development

As specified in clause 7.

4 Only with development consent

Development for the purpose of:

agriculture

buildings used for landscaping or gardening

bush fire hazard reduction works

child care centres

community centres

dams

damage to vegetation

environmental restoration works

forestry

parking areas

racecourses

recreation areas

recreation facilities

refreshment rooms

showgrounds

tourist facilities

utility installations (other than gas holders or generating works)

Demolition

Subdivision

5 Prohibited

Any development not included in Item 2, 3 or 4.

6 Zone specific development controls and special matters for consideration

development in open space zones—see clause 29

Zone No 6 (b) (Private Recreation Zone)

1 Zone objectives

The objectives of this zone are:

- (a) to identify and preserve private land used for recreational purposes, and
- (b) to allow for the provision of suitable facilities to enhance the use and enjoyment of open space areas.

2 Without development consent

Development for the purpose of:

works (but not buildings) involved in landscaping or gardening

3 Exempt development

As specified in clause 7.

4 Only with development consent

Development for the purpose of:

agriculture

buildings used for landscaping or gardening

bush fire hazard reduction works

clubs

community centres

damage to vegetation

dwelling-houses and residential buildings required for use or occupation by persons employed in the carrying out of other development allowed by this Item

environmental restoration works

parking areas

racecourses

recreation areas

recreation facilities

refreshment rooms

showgrounds

sportsgrounds

tourist facilities

utility installations (other than gas holders or generating works)

Demolition

Subdivision

5 Prohibited

Any development not included in Item 2, 3 or 4.

6 Zone specific development controls and special matters for consideration

development in open space zones—see clause 29

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

1 Zone objectives

The objectives of this zone are:

(a) to identify and protect the wetland environment and the natural habitats

it supports for conservation purposes, with particular attention being given to the protection of mangroves, and

(b) to prohibit development that is likely to have a detrimental effect on habitat or the landscape, and

(c) to enable development that would not have a significant detrimental effect on the habitat.

2 Without development consent

Nil.

3 Exempt development

Nil—as specified in clause 7.

4 Only with development consent

Development for the purpose of:

agriculture

animal establishments

bush fire hazard reduction works

damage to vegetation

environmental restoration works

utility installations (other than gas holders or generating works)

Demolition

Subdivision

5 Prohibited

Any development not included in Item 2, 3 or 4.

6 Zone specific development controls and special matters for consideration

general principles for rural development—see clause 26

dwellings—see clause 50

subdivision—see clause 43

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

1 Zone objectives

The objectives of this zone are:

- (a) to identify and protect environmentally sensitive and scenic coastal land and ensure that dune systems are not permanently altered, and
- (b) to enable development that does not have a significant detrimental effect on the habitat, landscape or scenic quality of the locality, and
- (c) to preserve flora and fauna habitats, and
- (d) to ensure that development is adequately protected from flooding and coastal erosion hazards.

2 Without development consent

Nil.

3 Exempt development

Nil—as specified in clause 7.

4 Only with development consent

Development for the purpose of:

- agriculture
- animal establishments
- beach amenities
- bush fire hazard reduction works
- camping grounds
- damage to vegetation
- dwellings
- environmental restoration works
- holiday cabins

home industries

parking areas

picnic areas and lookouts

surf clubhouses

utility installations

Demolition

Subdivision

5 Prohibited

Any development not included in Item 2, 3 or 4.

6 Zone specific development controls and special matters for consideration

general principles for rural development—see clause 26

development in Zone No 7 (f)—see clause 30

dwellings—see clause 50

subdivision—see clause 43

Zone No 7 (s) (Special Emphasis Zone)

1 Zone objectives

The objectives of this zone are:

- (a) to identify and protect natural habitats for conservation purposes, with particular attention being given to the protection of forest ecosystems, and
- (b) to protect significant forested views within the Bellingen local government area, and
- (c) to prohibit development that is likely to have a detrimental effect on the habitat or landscape, and
- (d) to enable development that would not have a significant detrimental effect on the habitat.

2 Without development consent

Nil.

3 Exempt development

As specified in clause 7.

4 Only with development consent

Any development not included in Item 2, 3 or 5.

5 Prohibited

Development for the purpose of:

attached dual occupancies

boarding-houses

bulk stores

bus depots

bus stations

car repair stations

caravan parks

churches

clubs

commercial premises

exhibition homes

generating works

health consulting rooms

hotels

industries (other than home industries)

institutions

junk yards

liquid fuel depots
motels
motor showrooms
professional consulting rooms
public buildings
recreation vehicle areas
residential flat buildings
road transport terminals
sawmills
service stations
shops
stock and sale yards
total destination resorts
transport terminals
units for aged persons
vehicle body repair workshops
warehouses

6 Zone specific development controls and special matters for consideration

general principles for rural development—see clause 26
development in Zone No 7 (s)—see clause 31
dwellings—see clause 50
subdivision—see clause 43

Zone No 8 (National Parks and Nature Reserves Zone)

1 Zone objectives

The objective of this zone is to identify land included in national parks, nature reserves, Aboriginal areas and State recreation areas reserved or dedicated under the *National Parks and Wildlife Act 1974*.

2 Without development consent

Any development authorised by or under the *National Parks and Wildlife Act 1974* and any ancillary or incidental development.

3 Exempt development

As specified in clause 7.

4 Only with development consent

Nil.

5 Prohibited

Any development not included in Item 2, 3 or 4.

6 Zone specific development controls and special matters for consideration

Nil.

Zone No 9 (Proposed Road Zone)

1 Zone objectives

The objective of this zone is to identify and preserve land intended to be acquired for new roads or the widening of existing roads.

2 Without development consent

Development for the purpose of:

agriculture (not including activities involving the erection of a building or damage to vegetation that are not exempt development)

roads

road widening

3 Exempt development

As specified in clause 7.

4 Only with development consent

Development for the purpose of:

agriculture (not including agriculture allowed without development consent)

bush fire hazard reduction works

damage to vegetation

environmental restoration works

utility installations

Demolition

Subdivision

5 Prohibited

Any development not included in Item 2, 3 or 4.

6 Zone specific development controls and special matters for consideration

acquisition of land—see clause 54

Part 3 Special provisions

12 Development for certain additional purposes

Nothing in this plan prevents the carrying out, with development consent, on land described in Schedule 6 of development described in relation to that land in that Schedule, subject to such requirements, if any, as are specified in that Schedule.

13 Temporary use of land

Consent may be granted to the carrying out on any land, for a maximum period of 28 days (whether consecutive or non-consecutive) in any 1 year, of development that would otherwise be prohibited by the provisions of this plan if the consent authority is satisfied that the development is compatible with the objectives of the zone in which the land is located.

14 Height of buildings

Consent must not be granted to the erection of a building that would have a height of more than 10 metres.

15 Subdivision generally

A person must not subdivide land without development consent.

16 Construction of dams

A person must not carry out development for the purpose of a dam without development consent, unless the work is exempt development.

17 Sawdust and sawmill waste

Sawdust or sawmill waste must not be:

- (a) burnt, or
- (b) deposited on any land, whether by way of filling or otherwise, unless it is being used for landscaping as a mulch or weed suppressant material (or both),

without development consent.

18 Development in the vicinity of creeks and streams and other waterbodies

(1) A person must not carry out development within a waterbody or within 50 metres of the banks of a waterbody except with development consent, unless the development is exempt development.

(2) Consent must not be granted to any such development unless the consent authority has made an assessment of the effect that the development is likely to have on:

- (a) the stability of banks, and
- (b) flows to and water table levels in any nearby wetland, and
- (c) water quality,

and of the needs of existing and potential users of water downstream from the development.

19 Flood considerations

(1) A person must not carry out development on flood liable land except with development consent, unless the development is exempt development.

(2) Subclause (1) does not apply to development for the purpose of agriculture that may otherwise be carried out on the land without development consent.

- (3) Consent must not be granted to the erection of a building or the carrying out of a work on flood liable land unless the consent authority is satisfied that:
 - (a) the development will not unduly restrict the flow characteristics of flood waters, and
 - (b) the development will not unduly increase the level of flooding on other land in the vicinity, and
 - (c) the structural characteristics of any building or works the subject of the application are capable of withstanding flooding, and
 - (d) the development does not involve any risk to life, human safety or private property in time of flood, and
 - (e) satisfactory arrangements have been or are to be made for access to the building or work during a flood.
- (4) Consent may be refused to development that, in the opinion of the consent authority, will:
 - (a) adversely affect the flood level at any point above or below the site of the development, or
 - (b) increase, to a substantial degree, the flow of water on any adjoining land, or
 - (c) cause soil erosion, siltation or destruction of river bank vegetation, or
 - (d) affect the water table of any adjoining land, or
 - (e) adversely affect river bank stability, or
 - (f) involve a risk to life, human safety or private property in time of flood.
- (5) Before granting consent to development, the consent authority must have regard to information, if any, provided by the Department of Public Works and Services or the Department of Land and Water Conservation as to the flooding characteristics of the land.

20 Development on land identified in an acid sulfate soil class

- (1) A person must not, without development consent, carry out on land within a class shown in Column 1 of the following Table the works described in Column 2 of that Table, except as provided by subclause (3).

Table

Column 1

Column 2

Acid sulfate soil class as shown on the map	Works
1	Any works
2	Works below natural ground surface Works by which the watertable is likely to be lowered
3	Works beyond 1 metre below natural ground surface Works by which the watertable is likely to be lowered beyond 1 metre below natural ground surface
4	Works beyond 2 metres below natural ground surface Works by which the watertable is likely to be lowered beyond 2 metres below natural ground surface
5	Works within 500 metres of adjacent Class 1, 2, 3 or 4 land which are likely to lower the watertable below 1 metre AHD on adjacent Class 1, 2, 3 or 4 land

(2) For the purpose of this clause, **works** includes:

- (a) any disturbance of soil which would result in more than 1 tonne of soil being disturbed on a holding in any 12-month period (including, among other activities, disturbance such as occurs in carrying out agriculture, construction or maintenance of drains, extractive industry, dredging, construction of artificial waterbodies such as canals, dams and detention basins, foundations, trenching or flood mitigation works), and
- (b) any other works that are likely to lower the watertable.

(3) Consent is not required by this clause for the carrying out of works if:

- (a) a preliminary assessment of the works undertaken in accordance with the *Acid Sulfate Soils Assessment Guidelines* has been submitted to the Council, and
- (b) the Council has provided written advice to the person proposing to carry out works confirming that results of the preliminary assessment indicate the works need not be carried out pursuant to an acid sulfate soil management plan prepared in accordance with the *Acid Sulfate Soils Assessment Guidelines*.

(4) Consent required by this clause must not be granted unless the consent authority has considered:

- (a) the adequacy of an acid sulfate soil management plan prepared for the development in accordance with the *Acid Sulfate Soils Assessment Guidelines*, and
- (b) the likelihood of the development resulting in the discharge of acid water, and
- (c) any comments received from the Department of Land and Water Conservation within 21 days of the consent authority having sent that Department a copy of the development application and of the related acid sulfate soil management plan.

21 Development affected by coastal processes

- (1) This clause applies to coastal land situated east of or within 200 metres west of the back beach erosion escarpment other than that land in the vicinity of Mylestom that is east of the heavy broken red line shown on the map.
- (2) A person must not carry out development on land to which this clause applies except with development consent.
- (3) The consent authority may decline to grant development consent if it has not been supplied with a plan of survey delineating the distance specified in subclause (1) for the land to which the development application relates.
- (4) Consent must not be granted to development on land to which this clause applies unless the consent authority has:
 - (a) made an assessment of the stability of that land and the likely influence of coastal processes, and
 - (b) considered any comments in relation to coastal erosion hazards received from the Department of Land and Water Conservation within 28 days of the consent authority having sent that Department a copy of the development application.

22 Coastal lands

- (1) This clause applies to land to which the *NSW Coastal Policy 1997* applies.
- (2) Before granting consent to development, the consent authority must take into account:
 - (a) the *NSW Coastal Policy 1997*, and
 - (b) the *Coastline Management Manual* produced by the Department of Public Works in 1990, and
 - (c) the *North Coast Design Guidelines* produced by the Department of Planning in 1989.
- (3) Consent must not be granted to development that would impede any existing lawful public access to the foreshore.

- (4) Consent must not be granted to development that would result in beaches or waterfront open space being overshadowed before 3 pm midwinter (standard time) or 7 pm midsummer (daylight saving time).

23 Wetlands and fisheries

Consent must not be granted to any development within a river or stream, coastal or inland wetland or fishery habitat area or within the drainage catchment of, or on land adjoining, a river or stream, coastal or inland wetland or fishery habitat area unless the consent authority has considered the following matters:

- (a) the need to maintain or improve the quality and quantity of flows of water to the wetland or habitat, and
- (b) the need to conserve existing amateur and commercial fisheries, and
- (c) any loss of habitat which will or is likely to be caused by the development, and
- (d) whether an adequate public foreshore reserve is available or is to be provided and, if so, whether there is or will be, adequate public access to that reserve, and
- (e) whether the development will, or is likely to, result in pollution of the river, stream, wetland or habitat area and any measures to eliminate pollution, and
- (f) the proximity of aquatic reserves declared under the *Fisheries Management Act 1994* and the effect the development will have on these reserves, and
- (g) whether the site of the development is State protected land within the meaning of the *Native Vegetation Conservation Act 1997* and any measures to prevent soil erosion, and
- (h) the need to ensure that native vegetation surrounding the wetland or fishery habitat area is conserved, and
- (i) the recommendations of any environmental audit or water quality study prepared by the Department of Land and Water Conservation or the Environment Protection Authority relating to the river, stream, wetland, area or catchment of which the Council has been notified for the time being by that Department or Authority.

24 Development on or in the vicinity of ridgelines

Consent must not be granted to development on or near any ridgeline where, in the opinion of the consent authority, that development is likely to substantially detract from the visual amenity of the area.

25 Development in the vicinity of national parks and nature reserves

Consent must not be granted to development in the vicinity of a national park or nature reserve unless the consent authority has made an assessment of the effect the

development will have on the environmental significance of the national park or nature reserve concerned.

26 General principles for rural development

- (1) This clause applies to land within Zone No 1 (a1), 1 (a2), 1 (c1), 1 (c2), 1 (c3), 1 (d), 1 (f), 7 (a), 7 (f) or 7 (s).
- (2) Consent must not be granted to any development unless the consent authority is satisfied that:
 - (a) each of the general principles set out in Schedule 7 has been complied with, in so far as it is relevant to the development, or
 - (b) if the development does not comply with any relevant general principle, the failure is due to a contradiction between the requirements made by two or more of those principles when applied to the development or is because the particular circumstances of the site make it impractical to comply with one or more of those principles.

27 Tourism development

- (1) Before granting any consent for tourism development, the consent authority must have regard to:
 - (a) the *North Coast Region Tourism Development Strategy* and the *Tourism Development Along the New South Wales Coast: Guidelines*, and
 - (b) if the development consists of or includes use of a natural tourism area for tourism purposes, the publication titled *Tourism Development near Natural Areas: Guidelines for the North Coast* regarding the location of facilities, the intensity of development and the means of access available from the site of the development to any adjoining natural areas.

Note—

The publications referred to in this subclause are available at the Grafton office of the Department.

- (2) Consent must not be granted for tourism development in rural areas unless the consent authority is satisfied that the development will be low-key and small-scale, and will incorporate ecotourism principles.
- (3) Consent must not be granted for any tourism development unless the consent authority is satisfied that:
 - (a) adequate access by road, railway or water transport (or any combination of them) exists or will be provided to service the development, and
 - (b) the development will not substantially detract from the visual amenity or be

detrimental to any other significant feature of the natural environment.

28 Tourist facilities in Zone No 1 (a1)

- (1) Consent must not be granted for tourist facilities within Zone No 1 (a1) unless:
 - (a) the operation of the tourist facility on the land is to be undertaken in conjunction with the agricultural use of the land, and
 - (b) the operation of the tourist facility on the land will not conflict with adjoining agricultural uses.
- (2) Subclause (1) (a) does not apply where the development is on a holding with an area of not more than 5 hectares.

29 Matters for consideration for development in open space zones

Before consent is granted for development within an open space zone, the consent authority must take the following matters into consideration:

- (a) the need to retain the land for its existing and likely future use, and
- (b) the need for the development on the land, and
- (c) whether there are any alternatives to the development, and
- (d) the impact of the development on the existing or likely future use and character of the land, and
- (e) whether any building will be secondary and complementary to the existing or proposed use of the land as public open space, and
- (f) whether the development will substantially diminish public use of and access to open space, and
- (g) whether the development is compatible with adjacent uses in relation to its height, bulk and noise generation and any other aspects that might conflict with surrounding land uses, and
- (h) whether the development will promote and be ancillary to the use and enjoyment of the land as distinct from satisfying a requirement generated by an adjoining land use or by an unassociated community need, and
- (i) whether the development is consistent with any plan of management applying to the land under Division 2 of Part 2 of Chapter 6 of the *Local Government Act 1993*, and
- (j) whether the development is compatible with the notified purpose if the land is a Crown reserve, and
- (k) whether the development is consistent with any plan of management applying to the

land adopted under section 114 of the *Crown Lands Act 1989*.

30 Development in Zone No 7 (f)

- (1) Consent must not be granted to development within Zone No 7 (f) except with the concurrence of the Director-General.
- (2) In considering whether to grant concurrence required by subclause (1), the Director-General must take into consideration:
 - (a) the extent to which the development will result in the degradation of, or restriction of access to, coastal recreation areas, and
 - (b) the extent to which the development will adversely affect the scenic qualities of the coastal landscape, and
 - (c) the likelihood of the development adversely affecting or being adversely affected by coastal processes.

31 Development in Zone No 7 (s)

- (1) Consent must not be granted to development of land that is part of a holding that includes land within Zone No 7 (s) and in any other zone unless the development is to be carried out on part of the land that is not within Zone No 7 (s), except where the consent authority is satisfied that:
 - (a) the development is for the purpose of enhancing the biodiversity or natural scenic values of the land, or
 - (b) the characteristics of the part of the land concerned are different from the general characteristics on the basis of which the land was included in Zone No 7 (s),and that there are no other reasonable or practical alternatives in the circumstances.
- (2) Consent must not be granted to development within Zone No 7 (s) unless the consent authority is satisfied that:
 - (a) the development is essential for the reasonable economic use of the land or the provision of utility services, and
 - (b) the development will be carried out in a manner which minimises:
 - (i) visual and scenic impact, and
 - (ii) the risk of soil erosion (including erosion by wind), and
 - (iii) the risk of water pollution, through increased siltation or otherwise, and
 - (iv) the destruction of rare or important vegetation systems, and

- (c) the development is essential to reduce the risk of bush fire, and
- (d) appropriate measures will be taken to retain existing vegetation or to rehabilitate the site, and
- (e) the development will not adversely affect wildlife and wildlife movement patterns.

32 Heritage items

- (1) A person must not, in respect of a building, work, relic, tree or place that is a heritage item:
 - (a) demolish or alter the building or work, or
 - (b) damage or move the relic, or excavate for the purpose of exposing the relic, or
 - (c) damage or despoil the place or tree, or
 - (d) erect a building on or subdivide land on which the building, work or relic is situated or that comprises the place, or
 - (e) damage any tree on land on which the building, work or relic is situated or that comprises the place,except with development consent, unless it is exempt development.
- (2) Consent must not be granted to a development application required by subclause (1) unless the consent authority has taken into consideration the extent to which the development will affect the heritage significance of the heritage item concerned and any stylistic or horticultural features of its setting.

33 Development in the vicinity of heritage items

Consent must not be granted to development in the vicinity of a heritage item unless the consent authority has made an assessment of the effect the development will have on the heritage significance of the item and its setting.

34 Conservation areas

- (1) A person must not, in respect of a conservation area:
 - (a) demolish or alter a building or work within the area, or
 - (b) damage or move a relic, or excavate for the purpose of exposing or removing a relic, within the area, or
 - (c) damage or despoil a place or tree within the area, or
 - (d) erect a building on or subdivide land within the area,

except with development consent, unless it is exempt development.

- (2) Consent must not be granted to a development application required by subclause (1) unless the consent authority has taken into consideration the extent to which the development will affect the heritage significance of the conservation area concerned.
- (3) Consent must not be granted to a development application required by subclause (1), being an application for consent to erect a new building or to alter an existing building within a conservation area, unless the consent authority has made an assessment of:
 - (a) the pitch and form of the roof, and
 - (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.

35 Heritage notifications

- (1) Consent must not be granted to the demolition of or damage to a building, work, relic or place that is a heritage item or within a conservation area unless the consent authority has considered any response received from the Heritage Council within 28 days of the consent authority having sent the Heritage Council a copy of the development application.
- (2) Subclause (1) does not apply to the partial demolition of or damage to a building, work, relic or place that is a heritage item or within a conservation area if, in the opinion of the consent authority, the partial demolition or damage will be of a minor nature and will not adversely affect the heritage significance of the heritage item or conservation area in relation to the environmental heritage of the Bellingen local government area.

36 Conservation incentives

Nothing in this plan prevents consent being granted to:

- (a) the use, for any purpose, of a building that is a heritage item or of the land on which any such building is erected, or
- (b) the use, for any purpose, of a building within a conservation area or of the land on which any such building is erected,

if the consent authority is satisfied that:

- (c) the proposed use will have little or no adverse effect on the amenity of the locality, and
- (d) the conservation of the building depends on consent being granted pursuant to this

clause.

37 Development on main road and highway frontages

- (1) This clause applies to development on land:
 - (a) that has frontage to a main road or State highway, or
 - (b) that has a direct vehicular access to a main road or State highway by a right-of-way or other means, or
 - (c) that has a direct vehicular access to a road that intersects with a main road or State highway and the point of access is within 90 metres of the intersection of the road and the main road or State highway.
- (2) Consent must not be granted to development unless the consent authority is satisfied that:
 - (a) the development, by its nature or intensity, or the volume and type of traffic likely to be generated, is unlikely to constitute a traffic hazard or to materially reduce the capacity and efficiency of the main road or State highway, and
 - (b) the development is of a type, whether or not related to the characteristics of the land on which it will be carried out, that justifies a location in proximity to a main road or State highway, and
 - (c) the location, standard and design of access points, and on-site arrangements for vehicle movement and parking, ensure that through traffic movements on the main road or State highway will not be impeded, and
 - (d) the development will not prejudice future improvements or realignments to a main road or State highway, as have been indicated to the Council for the time being by the RTA, or any proposal of that Authority, of which the Council is aware, to proclaim part of the road as a controlled access road within the meaning of the [Roads Act 1993](#).

38 Restriction on access

A point of access to any main road or State highway must not be formed except with development consent.

39 Industries and rural enterprises in rural areas

Consent may be granted to development for the purpose of an industry or a rural enterprise on any land within Zone No 1 (a2), 1 (c2), 1 (c3) or 1 (d), or on land within Zone No 1 (a1) that is within 1 kilometre of land within Zone No 2 (b) at Dorrigo, but only if, in the opinion of the consent authority:

- (a) the land is appropriately located in relation to urban areas, and

- (b) the land is the most suitable and practicable available for that industry, rural industry or enterprise, and
- (c) the industry, rural industry or enterprise could not otherwise be accommodated on land within Zone No 4, and
- (d) the development will not adversely affect the use and enjoyment of any adjoining land, and
- (e) the development will be located and designed to minimise any adverse environmental impact.

40 Development within the vicinity of Dorrigo

In the case of land within Zone No 1 (a1) that is within 1 kilometre of land within Zone No 2 (b) at Dorrigo, consent may be granted to development for any purpose other than an industry or rural enterprise (including development that would otherwise be prohibited by this plan), but only if:

- (a) the development is primarily intended to result in the provision of services to the residents of Dorrigo and the surrounding district, and
- (b) the consent authority is satisfied that no suitable land is available for the development within Zone No 2 (b) at Dorrigo.

41 Development at Urunga

- (1) This clause applies to land at Urunga generally bounded by the Kalang River, the Pacific Highway, the South Pacific Ocean and Hungry Head Road and including the localities of Newry Island, Yellow Rock, Urunga, South Urunga and Hungry Head.
- (2) Consent must not be granted to development within Zone No 2 (b) generally south of Hillside Drive on land to which this clause applies unless the consent authority is satisfied that:
 - (a) where the development involves the generation of domestic or other waste, it will be disposed of by a reticulated sewage system, and
 - (b) the development is designed to maximise the retention of existing vegetation but, if removal of existing vegetation is unavoidable, appropriate measures to re-establish vegetation will be implemented, and
 - (c) appropriate measures will be implemented during construction and after completion of the development to control stormwater flows, soil erosion and siltation of wetland areas, and
 - (d) the development is designed to minimise risk to life and property from bush fire and flood, and

- (e) adequate steps have been taken to determine whether the land on which the development is to be carried out contains Aboriginal archaeological relics, and the development incorporates appropriate measures in respect of any identified relics, and
 - (f) the size and arrangement of allotments intended to be used for residential purposes are appropriate in relation to the efficiency of reticulated sewage systems, to the potential need for future resubdivision, and to the desirability of maintaining larger allotments adjacent to the Pacific Highway, the North Coast Railway, electricity easements, wetlands or watercourses, and
 - (g) the development is unlikely to prejudice the timing or nature of development of other land, and
 - (h) the development will not create or require vehicular access to the Pacific Highway other than by use of planned local roads and related intersections, except temporary access pending construction of those planned local access roads.
- (3) Despite any other provision of this plan, consent may be granted to development for the purpose of the following on the land to which this clause applies in Zone No 1 (c1) in the vicinity of Hungry Head Road:
- (a) commercial premises with a floor area not exceeding 30 square metres,
 - (b) tourist facilities and shops associated with a tourist facility and located on the same land as the tourist facility.

42 Land subject to geological and mining hazards

Consent must not be granted to development on land which, on information supplied for the time being to the Council by the Department of Mineral Resources:

- (a) contains recoverable extractive or mineral resources, or
- (b) is the site of an existing mine or extractive industry, or
- (c) is liable to slip or other movement associated with geological conditions, or on land within 1 kilometre of any such land, unless the consent authority is satisfied that the development is unlikely to:
 - (d) be subject to hazards associated with blasting, mine subsidence, landslip or other land movement, or
 - (e) prejudice the recovery of extractive or mineral resources.

43 Subdivision of land in rural and environmental protection zones

- (1) This clause applies to land within Zone No 1 (a1), 1 (a2), 1 (d), 7 (a), 7 (f) or 7 (s).

- (2) Consent must not be granted to subdivision of land to which this clause applies except in accordance with this clause.
- (3) Consent may be granted to subdivision of land located on the Dorrigo plateau where each allotment to be created by the subdivision has an area of not less than 70 hectares.
- (4) Consent may be granted to subdivision of land involving the creation of a **special purpose allotment**, being an allotment to be lawfully used, or which may be so used because of an existing development consent or the existing use provisions of the Act, otherwise than for the purpose of agriculture, forestry, a dwelling or rural workers' accommodation, but only if the consent authority is satisfied that:
 - (a) the special purpose allotment will be of sufficient size for its intended use, and
 - (b) the agricultural potential of the other allotment or allotments resulting from the subdivision and of surrounding land will not be unreasonably reduced, and
 - (c) no accommodation will be required or expected in conjunction with the special purpose, and
 - (d) adequate consideration has been given to the future use of the allotment at any time at which the special use of the allotment might cease.
- (5) Consent may be granted to subdivision of land involving the creation of an allotment for a public reserve or other public purpose.
- (6) Consent may be granted to a boundary adjustment, but only if:
 - (a) the number of dwellings permissible under clause 50 (3) on the land following that adjustment is not greater than the number permissible immediately before the adjustment, and
 - (b) in the case of land on the Dorrigo plateau, each allotment to be created by the boundary adjustment has an area of not less than 70 hectares.
- (7) Consent must not be granted to a boundary adjustment pursuant to subclause (6) if the consent authority is of the opinion that:
 - (a) the agricultural potential of the land will be unreasonably reduced because of the adjustment, or
 - (b) the result of the adjustment will be to create unreasonable conflict between existing and likely future agricultural activities carried out on surrounding land and the activities to be carried out on the allotments following adjustment of the boundaries, or
 - (c) the size of the resulting allotments will be inconsistent with the subdivision pattern

within the locality and such inconsistency is undesirable, or

- (d) the resulting allotments will, by their shape, size and location, create unreasonable additional demand for services within the locality.
- (8) Where a holding includes land within a zone or zones referred to in subclause (1) and also within Zone No 2 (a), 2 (b), 3, 4, 5 or 6 (b), consent may be granted to subdivision of the holding to separate all of the land within the zones referred to in subclause (1) from all or part of the land within any other zone specified in this subclause.
- (9) Consent must not be granted to subdivision pursuant to subclause (8) if the consent authority is of the opinion that:
- (a) the agricultural potential of land within Zone No 1 (a1) or 1 (a2) will be unreasonably reduced because of the subdivision, or
 - (b) the result of the subdivision will be to create unreasonable conflict between existing and likely future agricultural activities carried out on surrounding land and the activities to be carried out on the allotments following the subdivision, or
 - (c) the size of the resulting allotments will be inconsistent with the subdivision pattern within the locality and such inconsistency is undesirable, or
 - (d) the resulting allotments will, by their shape, size and location, create unreasonable additional demand for services within the locality, or
 - (e) the subdivision is likely to result in an undesirable proliferation of buildings.
- (10) Consent must not be granted to a subdivision pursuant to subclause (3), (4), (5), (6) or (8) where the land to be subdivided is located partly within Zone No 7 (a), 7 (f) or 7 (s) and partly within another zone referred to in subclause (1), unless the consent authority is satisfied that:
- (a) each allotment to be created by the subdivision which, in the opinion of the consent authority, is likely to be used for a purpose that will involve the erection of buildings or the carrying out of works involving disturbance to the natural characteristics of the land, includes land on which the buildings and any associated principal development areas are to be located, or the disturbance is to be carried out, that is not within Zone No 7 (a), 7 (f) or 7 (s), and
 - (b) the subdivision and likely future use of the allotments to be created is not likely to have a detrimental effect on the environmental qualities of the land within Zone No 7 (a), 7 (f) or 7 (s).

44 Subdivision of land in Zone No 1 (c1)

- (1) Consent may be granted to subdivision to create an allotment that will contain land within Zone No 1 (c1) but only if:

- (a) the area of each allotment created by the subdivision, other than an allotment for a public reserve or other public purpose, will be not less than 4,000 square metres, and
 - (b) the subdivision will not result in the average size of all allotments (exclusive of any allotment for a public reserve or other public purpose) created from land that was held in one ownership on 9 February 1990 being less than 8,000 square metres, and
 - (c) each allotment created by the subdivision, other than an allotment for a public reserve or other public purpose, will be capable of supporting a means of disposal of domestic sewage and waste water acceptable to the consent authority, and
 - (d) an adequate water supply is available to the land, and
 - (e) where the total number of dwellings permissible on the land pursuant to clause 50 (3) will be increased as a result of the subdivision, the land to be subdivided is, or as a result of the subdivision will be, linked by a bitumen sealed road, meeting contemporary engineering standards, to the nearest urban service centre.
- (2) Where land to be subdivided under subclause (1) is part of a holding that includes land within Zone No 1 (a1), 1 (a2), 1 (d), 7 (a), 7 (f) or 7 (s), that part of the holding within those zones (excluding any part on which a dwelling-house is permissible under clause 50 (3)) must be incorporated into a single new allotment to be created containing land within Zone No 1 (c1) under the provisions of subclause (1). The area of land in any of Zone No 1 (a1), 1 (a2), 1 (d), 7 (a), 7 (f) or 7 (s) is not to be included in the calculation of allotment sizes specified in subclause (1).

45 Subdivision of land in Zone No 1 (c1) on Newry Island

- (1) This clause applies to land within Zone No 1 (c1) on Newry Island, at Urunga.
- (2) Despite any other provision of this plan, consent must not be granted to subdivision of land to which this clause applies other than a boundary adjustment or subdivision to create an allotment for a public reserve or other public purpose.
- (3) Consent may be granted to a boundary adjustment only if the number of dwellings permissible under clause 50 (3) on the land following the adjustment is not greater than the number permissible immediately before the adjustment.

46 Subdivision of land in Zone No 1 (c2)

- (1) Consent may be granted to subdivision to create an allotment that will contain land within Zone 1 (c2) but only if:
 - (a) the area of each allotment created by the subdivision other than an allotment for a public reserve or other public purpose will be not less than 2 hectares, and

- (b) the subdivision will not result in the average size of all allotments, exclusive of any allotment for a public reserve or other public purpose, and any allotment larger than 20 hectares created from land that was held in one ownership on 9 February 1990 being less than 5 hectares, and
 - (c) each allotment created by the subdivision, other than an allotment for a public reserve or other public purpose, will be capable of supporting a means of disposal of domestic sewage and waste water acceptable to the consent authority, and
 - (d) where the total number of dwellings permissible on the land pursuant to clause 50 (3) will be increased as a result of the subdivision, the land to be subdivided is, or as a result of the subdivision will be, linked by a bitumen sealed road, meeting contemporary engineering standards, to the nearest urban service centre.
- (2) Where land to be subdivided under subclause (1) is part of a holding that includes land within Zone No 1 (a1), 1 (a2), 1 (d), 7 (a), 7 (f) or 7 (s), that part of the holding within those zones (excluding any part on which a dwelling-house is permissible under clause 50 (3)) must be incorporated into a single new allotment to be created containing land within Zone No 1 (c2) under the provisions of subclause (1). The area of land in any of Zone No 1 (a1), 1 (a2), 1 (d), 7 (a), 7 (f) or 7 (s) is not to be included in the calculation of allotment sizes specified in subclause (1).

47 Subdivision of land within an “excluded area”

- (1) This clause applies to land within Zone No 1 (c1) or 1 (c2) shown stippled on the map.
- (2) Land to which this clause applies is referred to in this clause as an **excluded area**.
- (3) Consent may be granted to subdivision that will create an allotment within an excluded area which, in the opinion of the Council, will be used for the purpose of a dwelling, but only if:
 - (a) the Council has obtained the agreement in writing of the Director-General to a revised *Bellingen Shire Rural Residential/Small Holding Release Strategy* which meets the requirements set out in clause 20 (3) of the *North Coast Regional Environmental Plan*, and
 - (b) the subdivision is in accordance with that Strategy.
- (4) Notwithstanding subclause (3), consent may be granted to a boundary adjustment, but only if the number of dwellings permissible under clause 50 (3) on the land following that adjustment is not greater than the number permissible immediately before the adjustment.

48 Subdivision of land in Zone No 1 (c3)

- (1) Consent may be granted to subdivision to create an allotment that will contain land within Zone No 1 (c3) but only if:

- (a) the area of each allotment created by the subdivision, other than an allotment for a public reserve or other public purpose, will be not less than 2 hectares, and
 - (b) the subdivision will not result in the average size of all allotments, exclusive of any allotment for a public reserve or other public purpose, and any allotment larger than 20 hectares created from land that was held in one ownership on 9 February 1990 being less than 3 hectares, and
 - (c) each allotment created by the subdivision, other than an allotment for a public reserve or other public purpose, will be capable of supporting a means of disposal of domestic sewage and waste water acceptable to the consent authority, and
 - (d) where the total number of dwellings permissible on the land pursuant to clause 50 (3) will be increased as a result of the subdivision, the land to be subdivided is, or as a result of the subdivision will be, linked by a bitumen sealed road, meeting contemporary engineering standards, to the nearest urban service centre.
- (2) Where land to be subdivided is part of a holding that includes land within Zone No 1 (a1), 1 (a2), 1 (d), 7 (a), 7 (f) or 7 (s), that part of the holding within those zones (excluding any part on which a dwelling-house is permissible under clause 50 (3)) must be incorporated into a single new allotment to be created containing land within Zone No 1 (c3) under the provisions of subclause (1). The area of land in any of Zone No 1 (a1), 1 (a2), 1 (d), 7 (a), 7 (f) or 7 (s) is not to be included in the calculation of allotment sizes specified in subclause (1).

49 Subdivision of certain land within South Urunga

- (1) This clause applies to the land within Zone No 2 (b) shown stippled on the map.
- (2) Land to which this clause applies is referred to in this clause as an **excluded area**.
- (3) Notwithstanding any other provision of this plan, consent must not be granted to subdivision that will create an allotment within an excluded area, other than a subdivision that will create an allotment for a public purpose or a boundary adjustment, until:
 - (a) a development control plan applying to the land subject to the subdivision has been approved by the Council making recommendations for lot yields and road network layouts that are different from those set out in *Development Control Plan No 10—South Urunga Development Area* at 19 June 2001, and
 - (b) a review of the capacity of the Urunga Waste Water Treatment Plant and the Lower Bellinger Water Supply has been completed and the Council is of the opinion that the allotments to be created within the excluded area can be adequately serviced.

50 Rural dwellings

- (1) This clause applies to land within Zone No 1 (a1), 1 (a2), 1 (c1), 1 (c2), 1 (c3), 1 (d), 7

(a), 7 (f) or 7 (s).

- (2) Development for the purpose of a dwelling must not be carried out on land to which this clause applies except in accordance with this clause.
- (3) Consent may be granted to development for the purpose of a dwelling-house only if there is no other dwelling erected on the land (other than rural workers' accommodation) or the only dwelling on the land (other than rural workers' accommodation) is a dwelling to be replaced or extended by the dwelling-house for which consent is being sought, and the land:
- (a) is located on the Dorrigo plateau and has an area of not less than 70 hectares, or
 - (b) is an allotment, not being a special purpose allotment or an allotment for a public reserve or other public purpose, created in accordance with the provisions of clause 43 (3), (6) or (8), 44, 45, 46, 47 or 48 or a consent granted pursuant to [State Environmental Planning Policy No 1—Development Standards](#) because any of the requirements made by those provisions was unreasonable or unnecessary, or
 - (c) is an allotment created in accordance with the provisions of clause 13 (2) of [Bellingen Local Environmental Plan 1990](#) or a consent granted pursuant to [State Environmental Planning Policy No 1—Development Standards](#) because any of the requirements made by that provision was unreasonable or unnecessary, or
 - (d) is an allotment created in accordance with clause 13 (3) or (4) of [Bellingen Local Environmental Plan 1990](#), not being a special purpose allotment or an allotment for an essential public reserve or other public purpose, or
 - (e) is an allotment created in accordance with clause 13 (6) of [Bellingen Local Environmental Plan 1990](#), or
 - (f) is an allotment created in accordance with the provisions of clause 14, 15 or 15A of [Bellingen Local Environmental Plan 1990](#) or a consent granted pursuant to [State Environmental Planning Policy No 1—Development Standards](#) because any of the requirements made by those provisions was unreasonable or unnecessary, or
 - (g) is an allotment created in accordance with clause 12 of this plan or clause 42 of the [Bellingen Local Environmental Plan 1990](#), but only where the relevant plan provided that a dwelling was to be permissible on the lot resulting from the subdivision, or
 - (h) is an allotment, other than a special purpose allotment, created in accordance with the provisions of [Interim Development Order No 1—Shire of Bellingen](#) or a consent granted pursuant to [State Environmental Planning Policy No 1—Development Standards](#) because any of the requirements made by those provisions was unreasonable or unnecessary, and on which a dwelling-house could

have been erected with or without development consent under the provisions of *Interim Development Order No 1—Shire of Bellingen*, or

- (i) is an allotment created in accordance with a development consent that required consolidation of land prior to or in conjunction with development for the purpose of a dwelling, rural worker's dwelling or rural workers' accommodation, or
 - (j) is land that is subject to a development consent for a dwelling-house or expanded dwelling granted in accordance with the provisions of clause 17 (3) (a) of *Bellingen Local Environmental Plan 1990* or a consent granted pursuant to *State Environmental Planning Policy No 1—Development Standards* because any of the requirements made by those provisions was unreasonable or unnecessary, but only if that consent has not lapsed, or
 - (k) is land that is subject to a development consent for a dwelling-house or expanded dwelling granted in accordance with the provisions of *Interim Development Order No 1—Shire of Bellingen* or a consent granted pursuant to *State Environmental Planning Policy No 1—Development Standards* because any of the requirements made by those provisions was unreasonable or unnecessary, but only if that consent has not lapsed, or
 - (l) is land subject to a development consent for a dwelling-house or expanded dwelling granted under clause 12 of this plan or clause 42 of *Bellingen Local Environmental Plan 1990*, but only if that consent has not lapsed, or
 - (m) is a 1969 existing holding, or
 - (n) is a 1990 existing holding, or
 - (o) is a 1996 existing holding, or
 - (p) is residue land, or
 - (q) is land on which a dwelling-house could have been erected under the provisions of this clause, but for the excision of land for a public purpose that was undertaken without the need for development consent, or
 - (r) is land on which a dwelling-house could have been erected under the provisions of this clause, but for the addition of land by way of a consolidation that was undertaken without the need for development consent, or
 - (s) is land on which a dwelling-house could have been erected under the provisions of this clause, but for the excision under the provisions of this plan of a special purpose allotment or an allotment for a public reserve or other public purpose.
- (4) Consent must not be granted to development for the purpose of a dwelling-house to replace an existing dwelling under subclause (3) unless a condition is imposed

requiring that the new dwelling-house must not be occupied until the original dwelling is demolished or rendered permanently incapable of separate habitation.

- (5) If land is located partly within Zone No 7 (a), 7 (f) or 7 (s) and partly within another zone referred to in subclause (1), consent must not be granted to development for the purpose of a dwelling-house on that part of the land that is within Zone No 7 (a), 7 (f) or 7 (s).
- (6) Consent may be granted to development for the purpose of rural workers' accommodation on land on which one, but no more than one, dwelling-house or expanded dwelling is erected, but only if:
- (a) the land on which the rural workers' accommodation will be located is not within Zone No 7 (a), 7 (f) or 7 (s), and
 - (b) a dwelling-house is permissible on the land under the provisions of this clause, and
 - (c) that land has an area:
 - (i) in the case of land on the Dorrigo plateau, of not less than 70 hectares, or
 - (ii) in the case of any other land, of not less than 40 hectares.
- (7) Consent must not be granted to development for the purpose of rural workers' accommodation under subclause (6) unless:
- (a) the consent authority is satisfied that the rural workers' accommodation will be occupied by a person or persons employed or engaged by the owner of the holding for the purpose of undertaking agriculture or operating an animal establishment on the same holding, and
 - (b) the development of the rural workers' accommodation will not impair the suitability of the land for agriculture, and
 - (c) the agricultural pursuits carried out on that holding warrant the employment of at least one full-time worker, in addition to persons occupying the dwelling-house or expanded dwelling on the holding, and that it is essential for the operation of those agricultural pursuits that the worker reside on the property for the duration of his or her employment.
- (8) Consent must not be granted to development on land pursuant to subclause (3) or (6) unless a condition is imposed on the consent requiring the consolidation of the land, if the land subject to the development application comprises more than one allotment.
- (9) Consent may be granted to development for the purpose of a caretaker's dwelling on an allotment that was created as a special purpose allotment in accordance with a development consent granted under the provisions of *Interim Development Order No*

1—*Shire of Bellingen* or prior to 24 December 1999 under the provisions of clause 13 (3) of *Bellingen Local Environmental Plan 1990*, but only if:

- (a) there is no other dwelling on the land, and
- (b) the use of the allotment for that special purpose is established, and
- (c) the consent authority is satisfied that the caretaker's dwelling is ancillary to the use for which the allotment was created and that it is essential for the carrying out of that use that a caretaker reside on the allotment at all times.

(10) Consent must not be granted pursuant to subclause (9) unless a condition is imposed on the consent requiring that:

- (a) should the use of the allotment for the purpose for which it was created cease for a period, the caretaker's dwelling must not be occupied while the use is not operating, and
- (b) should the use of the allotment for the purpose for which it was created be abandoned, the caretaker's dwelling must be demolished or rendered permanently incapable of separate habitation.

51 Expanded dwellings

(1) Where development for the purpose of a dwelling-house may be carried out, a person may, with development consent:

- (a) where there is no existing dwelling on the land, erect an expanded dwelling on the land, or
- (b) alter or add to a dwelling erected on the land so as to create an expanded dwelling.

(2) Clause 50 applies to development for the purpose of an expanded dwelling pursuant to subclause (1) in the same way as it applies to development for the purpose of a dwelling-house.

52 Dual occupancy in rural areas

(1) Where development for the purpose of a dwelling-house may be carried out on land within Zone No 1 (a1), 1 (a2), 1 (c1), 1 (c2), 1 (c3), or 1 (d) in accordance with the provisions of clause 50 (3), a person may, with development consent:

- (a) where there is no existing dwelling on the land, erect an attached dual occupancy on the land, or
- (b) alter or add to a dwelling-house or expanded dwelling erected on the land so as to create an attached dual occupancy.

- (2) Clause 50 applies to development for the purpose of an attached dual occupancy pursuant to subclause (1) in the same way as it applies to development for the purpose of a dwelling-house.

53 Advertising structures and signs

- (1) Consent may be granted to development for the purpose of an advertising structure, but only if:
- (a) the advertising structure is to be used to display a sign or signs specific to the lawfully created use of the site on which the advertising structure is to be erected, and
 - (b) the consent authority is satisfied that the advertising structure will not interfere with the character or amenity of the area, and
 - (c) the consent authority is satisfied that the advertising structure will not jeopardise or impair traffic safety.
 - (d) (Repealed)
- (2) Consent may be granted to development for the purpose of a sign, but only if:
- (a) the sign is specific to the lawfully created use of the site on which the sign is to be displayed, and
 - (b) the consent authority is satisfied that the sign will not interfere with the character or amenity of the area, and
 - (c) the consent authority is satisfied that the sign will not jeopardise or impair traffic safety.
 - (d) (Repealed)

54 Acquisition of land within Zone No 9

- (1) The owner of any land within Zone No 9 may, by notice in writing, require the RTA to acquire the land.
- (2) On receipt of such a notice, the RTA must acquire the land if:
- (a) the land is vacant land immediately before the day on which the notice is given, or
 - (b) the land is not vacant, but:
 - (i) the land is included in a 5-year works program of the RTA current at the time of the receipt of the notice, or
 - (ii) the RTA has decided not to give concurrence under subclause (3) to an application for consent to the carrying out of development on the land, or

(iii) the RTA is of the opinion that the owner of the land will suffer hardship if the land is not acquired within a reasonable time,

but the RTA is not required to acquire the land if it might reasonably be required to be dedicated for public road purposes.

- (3) A person may, with development consent and the concurrence of the RTA, carry out development on land within Zone No 9 if that development:
- (a) may be carried out on land in an adjoining zone, or
 - (b) is compatible with development which may be carried out on land in an adjoining zone.
- (4) In deciding whether to grant concurrence to development under this clause, the RTA must take the following matters into consideration:
- (a) the need to carry out development on the land for the purpose for which the land is reserved, and
 - (b) the imminence of acquisition, and
 - (c) the likely additional cost to the RTA resulting from the carrying out of the development.
- (5) Any development may be carried out on land acquired under this clause, but only with development consent, until such time as the land is required for the purpose for which it was acquired.

55 Community use of school facilities or sites

- (1) Where land to which this plan applies is used for the purposes of an educational establishment, the site and facilities of the establishment may, with development consent, be used for the purposes of meeting rooms, public halls, public libraries, entertainment, sport or recreation or for any other community purpose, whether or not the use is a commercial use of the land.
- (2) Nothing in this clause requires development consent to be granted for the carrying out of development on any land if that development could, but for this clause, be carried out on that land without development consent.

56 Relocation of major roads

- (1) A road or other means of access which forms a junction or intersection with a main road must not be opened without development consent.
- (2) Consent may be granted to the opening of a public road or other means of access forming a junction or intersection with a main road, but only if the consent authority has taken into consideration:

- (a) the treatment of the junction or the intersection and its location having regard to town and country planning principles and to the safety and convenience of the public, and
- (b) the effect of opening the road or other means of access on the development of the locality.
- (c) (Repealed)

57 Roads, drainage, recreation areas, parking etc

Notwithstanding any other provision of this plan, development may be carried out on any land, without development consent, for the purpose of roads, stormwater drainage, recreation areas, bush fire hazard reduction works, parking, erosion control, amenity buildings, wetland protection or beach and dune rehabilitation if the development is to be carried out by or on behalf of the Council or another public authority and is not on land within Zone No 7 (a), 7 (f) or 7 (s).

58 Classification and reclassification of public land

- (1) The public land described in Part 1 or 2 of Schedule 8 is classified, or reclassified, as operational land for the purposes of the *Local Government Act 1993*, subject to this clause.
- (2) Land described in Part 1 of Schedule 8:
 - (a) to the extent (if any) that the land is a public reserve, does not cease to be a public reserve, and
 - (b) continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants by which it was affected before its classification, or reclassification, as the case requires, as operational land.
- (3) Land described in Columns 1 and 2 of Part 2 of Schedule 8, to the extent (if any) that it is a public reserve, ceases to be a public reserve on the commencement of the relevant amending plan and, by the operation of that plan, is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land except those (if any) specified for the land in Column 3 of Part 2 of Schedule 8.
- (4) In this clause, ***the relevant amending plan***, in relation to land described in Part 2 of Schedule 8, means this plan or, if the description of the land is inserted in that Part by another local environmental plan, that plan.
- (5) The public land described in Part 3 of Schedule 8 is classified, or reclassified, as community land for the purposes of the *Local Government Act 1993*.
- (6) Before the relevant amending plan inserted a description of land into Part 2 of

Schedule 8, the Governor approved of subclause (3) applying to the land.

59 Suspension of certain agreements, covenants and the like

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

Schedule 1 Exempt development

(Clause 7)

Note—

Check requirements contained in clause 7 before consulting this Schedule.

If proposed development does not satisfy the criteria in this Schedule, the development may be able to be carried out with consent and a development application will be required.

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Access ramps for people with disabilities

(being the erection and use of access ramps suitable for use by people with disabilities)

Not on land within 50 metres of the bank of a waterbody, on State protected land, on flood liable land or within an asset protection zone.

Not involving a heritage item.

Maximum height (not including handrails) 1 metre above ground level.

Located a minimum distance of 1 metre from any property boundary.

Water from any hard surface must be disposed of in a manner that does not cause nuisance to any person or premises.

For domestic use only.

Designed and constructed in compliance with AS 1428, *Design for access and mobility*.

Must be visually unobtrusive.

One per dwelling.

Advertising structures, displays and signs

(being the erection of an advertising structure and its use to display a sign, or the use of

land to display a sign that is not on an advertising structure)

Not on land within 50 metres of the bank of a waterbody, on State protected land, or on flood liable land.

Requirements applying to all signs (except to the extent of any inconsistency with a specific requirement for the sign below).

Not involving a heritage item or within a conservation area.

Must advertise only businesses or events which are operating legally.

Must not cover mechanical ventilation inlets or outlets.

Must be of a professional standard and finish.

Must not have total area of more than 5 square metres per premises.

All signs painted on windows must not be opaque and must not cover more than 3 square metres per premises.

Must not be located on any roof or above the line of any guttering, verandah or awning.

Note—

Signs on the fascia of the verandah or awning are included.

Must not be attached to any tree.

Must not cover more than 25% of any exterior wall.

Must not be illuminated.

Must not be a suspended under awning sign or a vertical or horizontal projecting wall sign.

Must be located on the land or premises to which the sign relates.

If a free-standing structure, must not be higher than 1.8 metres.

Must be visually unobtrusive.

Any sign not visible from any place outside the site on which it is displayed

May involve a heritage item or be located within a conservation area.

Must not obstruct views or sunlight to or from any other land.

Temporary signs (including banners) for social, cultural, political or recreational events

May involve a heritage item or be located within a conservation area.

Does not include commercial advertising apart from name of event sponsor(s).

Not displayed earlier than 28 days before the event or later than 7 days after the event.

Must be safely constructed and securely fixed to prevent a nuisance or hazard.

Must not be of a design (eg lettering size, style, number of words) or in a location that is a hazard to traffic.

Note—

Sign erected on or over a public road requires consent under the [Roads Act 1993](#).

Real estate signs

May involve a heritage item or be located within a conservation area.

The sign must be a real estate sign advertising that the premises on which it is displayed are for sale or lease.

Must be located on the premises to which the sign relates.

Maximum of 1 sign per agent, with a maximum of 4 signs in total per premises.

Each sign to have a maximum area of:

- (a) in areas zoned for residential or rural uses—1.2 metres × 0.6 metre for a standard sign and 1.2 metres × 0.9 metre for an auction sign,
- (b) in areas zoned for industrial and commercial uses—2.5 square metres.

Must not be attached to a tree.

Erected only during the period for which the property is for sale or lease, except in the case of an auction sign, in which case the sign may be erected no more than four weeks prior to the auction date, and must not be displayed more than 7 days after contracts are exchanged for the sale or lease of the premises.

Business identification signs in areas zoned for residential uses

Contains only the name and occupation of the resident.

Maximum of 1 per premises.

Must be located on the premises to which the sign relates.

The sign to have a maximum area of 0.75 square metre.

Must not be located over a public road.

Suspended under awning signs in areas zoned for commercial uses

All signs over a public road must be at least 600 millimetres from kerb/roadway edge.

May be illuminated if located within the Urunga central business area.

An illuminated sign must not include any flashing lights.

Maximum of 1 per premises.

Not closer than 3 metres to another under awning sign, whether on the same property or not.

Each sign to have a maximum area of 1.5 square metres.

If the sign extends over a public road, suspended at a height no less than 2.6 metres above ground/pavement level.

Aerials and antennae

(being the erection of aerials and antennae and their use for domestic purposes, but not satellite dishes which are dealt with as a separate class of exempt development)

Not involving a heritage item or within a conservation area.

Maximum height 4 metres above adjacent ground level.

The structure must be attached to a building on the property.

To be structurally sound and supported by guy cables where necessary.

Anchoring devices must not compromise the structural integrity or allow moisture penetration of the building.

Clearance from electricity transmission lines must be provided in accordance with relevant electricity authority requirements.

Must be visually unobtrusive.

Air conditioning units for dwellings—attached to external walls or ground mounted

(being the erection and use of air conditioning units for dwellings where the units are attached to external walls or ground mounted)

Not involving a heritage item or within a conservation area.

Located a minimum of 3 metres from any property boundary.

Noise generated by the air conditioning unit must not be audible inside any habitable room of an adjacent dwelling.

Any work required for the installation of the unit must not reduce the structural integrity of the building.

Any opening created must be adequately weatherproofed.

Must be visually unobtrusive.

Ancillary or incidental development

(being development on land for the purpose of parking, loading facilities, drainage, pollution control, security or a similar thing that is ancillary or incidental to an existing lawful use of the land)

Not on land within 50 metres of the bank of a waterbody, on State protected land, on flood liable land or within an asset protection zone.

Not involving a heritage item or within a conservation area.

No structure is to exceed:

- (a) 10 square metres in area, or
- (b) 2.4 metres in height.

Water from any hard surface must be disposed of in a manner that does not cause nuisance to any person or on any premises.

Must be visually unobtrusive.

**Awnings, canopies and stormblinds on dwellings
(being the erection and use of awnings, canopies and stormblinds)**

Not on land within an asset protection zone.

Not involving a heritage item.

Maximum area 10 square metres.

Maximum height 3 metres.

Must be visually unobtrusive.

Barbecues

(being the erection and use of barbecues)

Not on flood liable land.

Maximum area 4 square metres (does not include paved area for seating and the like around the BBQ itself).

Maximum height 1.8 metres.

Water from any hard surface must be disposed of in a manner that does not cause nuisance to any person or on any premises.

Must be visually unobtrusive.

Note—

Potential smoke and odour nuisance for neighbours should be avoided when choosing the design and location of the BBQ.

Bird aviaries (for domestic purposes only and not for keeping of fowls—for which, see “poultry yard”)

(being the erection of bird aviaries and their use for domestic purposes, but not for keeping fowls)

Not on land within 50 metres of the bank of a waterbody, on State protected land, or on flood liable land.

Maximum area 10 square metres.

Maximum height 2.4 metres.

Maximum height of any building, other than a fence or unroofed wire enclosure, 2.4 metres.

Maximum height of any fence or unroofed wire enclosure 1.8 metres.

Any building, other than a fence, must:

- (a) in an urban area, be at least 7 metres from a boundary with a road or other public place and at least 900 millimetres from any other boundary, or
- (b) in a rural area, be at least 20 metres from a boundary with a road or other public place and at least 10 metres from any other boundary.

Located in rear yard only.

One per dwelling.

Roof water and water from any hard surface must be disposed of in a manner that does not cause nuisance to any person or on any premises.

Must be visually unobtrusive.

Note—

Potential noise nuisance for neighbours should be avoided when choosing the location, number and type of birds to be kept.

Bus shelters

This exemption does not apply within 50 metres of the bank of a waterbody, on State protected land, or on flood liable land.

Must be suitably designed and constructed by or for the Council.

Must not obstruct the line of sight of vehicular traffic.

Maximum height of 2.4 metres above the footpath.

Maximum area 10 square metres.

Must not include advertising.

Access to shelter must not include any steps or grade greater than the requirements of AS 1428.1:2001, *Design for access and mobility, Part 1: General requirements for access—New building work*.

Roof water and water from any hard stand surface must be disposed of in a manner that does not cause nuisance to any person or on any premises.

Must be visually unobtrusive.

Cabanas/gazebos

This exemption does not apply within 50 metres of the bank of a waterbody, on State protected land, on flood liable land or within an asset protection zone.

Maximum area 10 square metres.

Maximum height of 2.4 metres.

Located in rear yard only.

In an urban area, must be at least 7 metres from a boundary with a road or public place and at least 900 millimetres from any other boundary.

In a rural area, must be at least 20 metres from a boundary with a road or public place and at least 10 metres from any other boundary.

Must comply with the Council's setback requirements.

Not to be used for habitable purposes.

Roof water and water from any hard surface must be disposed of in a manner that does not cause nuisance to any person or on any premises.

One per dwelling.

Must be visually unobtrusive.

Catteries

(being the erection of catteries and their use)

Not on land within 50 metres of the bank of a waterbody, on State protected land or on flood liable land.

One per dwelling.

Not for commercial use as an animal boarding establishment.

Maximum area 10 square metres.

Maximum height of any building or wire enclosure 2.4 metres.

Any building, other than a fence, must:

- (a) in an urban area, be at least 7 metres from a boundary with a road or other public place and at least 900 millimetres from any other boundary, or
- (b) in a rural area, be at least 20 metres from a boundary with a road or other public place and at least 10 metres from any other boundary.

Located in rear yard only.

Must be visually unobtrusive.

Roof water and other water from any hard surface must be disposed of in a manner that does not cause nuisance to any person or on any premises.

Change of use of a shop of one kind to a shop of another kind

(being a use for a different kind of shop resulting from such a change)

The new use must not be for a shop at which food is prepared and sold.

Not involving any change to the appearance of a heritage item or a conservation area (including signs, colours, finishes and the like).

Not involving building work.

The building must have been constructed legally for the purpose of a shop or there must be a current development consent for the use of the premises as a shop.

The new use must not involve use as a shop which is or contains a restricted publications area within the meaning of the *Classification (Publications, Films and Computer Games) Enforcement Act 1995*.

The curtilage of the shop must not be used for storage or display purposes.

There must be no increase in the amount of floor area used for the shop display area above that specified in any relevant condition of a development consent or, if there is no such condition, above that which the original shop used.

The hours of operation of the new shop must be consistent with any relevant condition of a development consent or, if there is no such condition, not extend outside the hours during which the original shop was used.

Must not involve the generation of offensive noise.

Where a condition of development consent imposed a requirement relating to:

- (a) the provision or maintenance (or both) of landscaping, or
- (b) the parking of vehicles, or
- (c) the provision of space for the loading or unloading of goods or vehicles,

on the use of the shop or on the use of the land on which the shop is created, the requirement applies to or in respect of the use of the new kind of shop.

Change of use of a place of public worship of a particular kind to another kind

(being a use of a place of public worship for a different kind of public worship resulting from such a change)

Not involving any change to the appearance of a heritage item or conservation area (including signs, colours, finishes and the like).

Not involving building work.

The new use must not create or increase adverse environmental impacts such as noise, movement of motor vehicles, or parking of motor vehicles.

The hours of operation of the new use must not extend outside the hours of the former use.

Where a condition of development consent imposed a requirement relating to:

- (a) the provision or maintenance (or both) of landscaping, or
- (b) the parking of vehicles, or
- (c) the provision of space for the loading or unloading of goods or vehicles, or
- (d) hours of operation,

on the use of the place of public worship or on the use of the land on which the place of public worship is located, the requirement applies to or in respect of the new use of the place of public worship.

Must not involve the generation of offensive noise.

**Change of use of commercial premises to another kind of commercial premises
(being a different commercial premises use resulting from such a change)**

**Not involving any change to the appearance of a heritage item or conservation area
(including signs, colours, finishes and the like).**

Not involving building work.

The building must have been constructed legally for the purpose of commercial premises or there must be a current development consent for the use of the premises as commercial premises.

The change must not involve commercial premises which are or contain:

- (a) a restricted publications area within the meaning of the *Classification (Publications, Films and Computer Games) Enforcement Act 1995*, or
- (b) a brothel.

The curtilage of the commercial premises must not be used for storage or display purposes.

The hours of operation of the new commercial premises must not extend outside the hours during which the original commercial premises were used.

Must not involve the generation of offensive noise.

Where a condition of development consent imposed a requirement relating to:

- (a) the provision or maintenance (or both) of landscaping, or
- (b) the parking of vehicles, or
- (c) the provision of space for the loading or unloading of goods or vehicles,

on the use of the commercial premises or on the use of the land on which the commercial premises are

located, the requirement applies to or in respect of the use of the new commercial premises.

Change of use of a social or sporting club (other than a club registered under the [Registered Clubs Act 1976](#)), or a community or cultural centre, to any other of these uses

(being a different use as a social or sporting club, or a community or cultural centre, resulting from such a change)

Not involving any change to the appearance of a heritage item or conservation area (including signs, colours, finishes and the like).

Not involving building work.

The building must have been constructed legally for the purpose of a social or sporting club (other than a club registered under the [Registered Clubs Act 1976](#)), community or cultural centre or there must be a current development consent for the use of the premises for such a club or centre.

Where a condition of development consent imposed a requirement relating to:

- (a) the maintenance or provision (or both) of landscaping, or
- (b) the parking of vehicles, or
- (c) the provision of space for the loading or unloading of goods or vehicles,

on the use of the building or on the use of the land on which the building is located, that requirement applies to or in respect of the new use.

Must not involve the generation of offensive noise.

Change of use of a building for the purpose of an industry or light industry to another light industry

(being a use of a building for the purpose of a light industry resulting from such a change)

Not involving any change to the appearance of a heritage item or conservation area (including signs, colours, finishes and the like).

Not involving building work.

The building must have been constructed legally for the purpose of an industry or a light industry or there must be a current development consent for the use of the premises for an industry or light industry.

Total floor space that may be used for the purpose of the new light industry must not exceed 500 square metres.

The building must have rear service access or access to off-street loading facilities.

The curtilage of the building must not be used for storage or display purposes.

The hours of operation of the new light industry must not extend outside the hours during which the former industry or light industry was carried on, or outside the hours between 6 am and 6 pm,

whichever is the more restrictive.

Must not involve the generation of offensive noise.

Where a condition of development consent imposed a requirement relating to:

- (a) the provision or maintenance (or both) of landscaping, or
- (b) the parking of vehicles, or
- (c) the provision of space for the loading or unloading of goods or vehicles,

on the use of the building for the purpose of the industry or light industry or on the use of the land on which the building is located, the requirement applies to or in respect of its use for the purpose of the new light industry.

Clothes hoists/lines

(being the erection of clothes hoists or clothes lines and their use)

Maximum height 2.4 metres.

Located in rear yard only.

Cubbyhouses

(being the erection of cubbyhouses and their use)

Not on land within 50 metres of the bank of a waterbody, on State protected land, on flood liable land or within an asset protection zone.

Maximum height of 2.1 metres above natural ground level.

Maximum area of 10 square metres.

Located in rear yard only.

Minimum distance of 3 metres from property boundary.

Not associated with commercial premises.

Roof water and water from any hard surface must be disposed of in a manner that does not cause nuisance to any person or on any premises.

One per dwelling.

Must be visually unobtrusive.

Damage to vegetation

(being damage or removal of vegetation as specified below only)

Note—

Clearing for which the [Native Vegetation Conservation Act 1997](#) or a regional vegetation management plan under that Act

requires consent is not exempt development, despite this item.

Where the work is carried out within 50 metres of the bank of a waterbody or on flood liable land, it must not disturb the soil except to the minimum extent required for hand removal of the vegetation.

If the work involves the disturbance of the ground surface, measures must be taken to prevent soil erosion.

Not involving a heritage item.

Being, on land within Zone No 2 (a), 2 (b), 3, 4, 5, 6 (a) or 6 (b):

- (a) damage or removal of any plant (other than a plant that is native to the Bellingen local government area and also within 50 metres of the bank of a waterbody) that:
 - (i) is less than 3 metres in height, and
 - (ii) has a girth of less than 300 millimetres at a height of 1 metre above natural ground surface, and
 - (iii) has a branch spread of less than 3 metres, or
- (b) damage or removal of any vegetation that is an environmental weed, or
- (c) damage or removal of any vegetation where the base of the trunk or stem is within 4 metres of the face of a lawful existing residential building or a proposed residential building authorised by a current building approval under the *Local Government Act 1993* or development consent under the *Environmental Planning and Assessment Act 1979*, or
- (d) damage or removal of any vegetation where the damage is essential to the carrying out of construction work authorised by a current approval under the *Local Government Act 1993* or development consent under the *Environmental Planning and Assessment Act 1979*, or
- (e) removal of a maximum of 10% of the canopy of a tree where the work is necessary for the health of the tree and is designed and carried out in accordance with AS 4373—1996, *Pruning of amenity trees*, or
- (f) damage or removal of any tree where it can be proved that the tree is a dead tree (not being a heritage item) or that it has become dangerous requiring immediate removal to protect life or to prevent substantial damage to property, or
- (g) damage or removal, by means not likely to be detrimental to the native ecosystem, of any vegetation declared to be a noxious weed within the Bellingen local government area under the *Noxious Weeds Act 1993*, or
- (h) damage or removal of any vegetation where directed by the Council for the purpose of bush fire hazard reduction.

Being, on land within Zone No 1 (a1), 1 (a2), 1 (c2), 1 (c3), 1 (d) or 7 (s):

- (a) damage or removal of any vegetation that is an environmental weed, or

- (b) damage or removal of any vegetation that is not native to the Bellingen local government area, or
- (c) damage or removal of any plant that:
 - (i) is not within Zone No 7 (s) or 50 metres of the bank of a waterbody, and
 - (ii) is less than 3 metres in height, and
 - (iii) has a girth of less than 300 millimetres at a height of 1 metre above natural ground surface, and
 - (iv) has a branch spread of less than 3 metres, or
- (d) damage or removal of any vegetation where the base of the trunk or stem is within 4 metres of the face of a lawful existing residential building or a proposed residential building authorised by a current building approval under the [Local Government Act 1993](#) or development consent under the [Environmental Planning and Assessment Act 1979](#), or
- (e) damage or removal of any vegetation where the damage is essential to the carrying out of construction work authorised by a current approval under the [Local Government Act 1993](#) or development consent under the [Environmental Planning and Assessment Act 1979](#), or
- (f) removal of a maximum of 10% of the canopy of a tree where the work is necessary for the health of the tree and is designed and carried out in accordance with AS 4373—1996, *Pruning of amenity trees*, or
- (g) damage or removal of any tree where it can be proved that the tree is a dead tree (not being a heritage item) or that it has become dangerous requiring immediate removal to protect life or to prevent substantial damage to property, or
- (h) damage or removal, by means not likely to be detrimental to the native ecosystem, of any vegetation declared to be a noxious weed within the Bellingen local government area under the [Noxious Weeds Act 1993](#), or
- (i) damage or removal of any vegetation within 3 metres of the boundary between land owned by different persons where that damage or removal is necessary to allow the erection or maintenance of a dividing fence between those lands, or

Note—

The consent of the owner (including the Council, in the case of road boundaries) of the land on which the vegetation is growing is required prior to the undertaking of work.

- (j) damage or removal of any vegetation within 0.5 metre of the boundary between land owned by different persons for the purpose of enabling a survey to be carried out along that boundary by a surveyor registered under the [Surveyors Act 1929](#), or

Note—

The consent of the owner (including the Council, in the case of road boundaries) of the land on which the vegetation is growing is required prior to the undertaking of work.

- (k) damage or removal of vegetation, not within Zone No 7 (s), involving only the selective cutting of individual trees:

- (i) where such trees are obtained from land that is generally forested, and
 - (ii) where such trees are to be used for the purpose of obtaining wood for fence posts, stockyards, farm buildings, firewood, bridges and the like on the same holding, and
 - (iii) where the cutting is to be carried out on a sustainable yield basis by which no more than 5% of the trees on the holding are removed in any year, or
- (l) damage or removal of any vegetation on land within Zone No 1 (a1) involving only the clearing of regrowth which is:
- (i) less than 6 metres in height, and
 - (ii) not within 50 metres of a waterbody, and
 - (iii) on land that is classified as Class 1, 2 or 3 agricultural land by the Director-General of the Department of Agriculture, or
- (m) damage or removal of any vegetation where directed by the Council for the purpose of bush fire hazard reduction.

Dams

(being the carrying out of a work for the purpose of a dam and use of the dam)

On land within Zone No 1 (a1) or 1 (a2) only.

Not on land within 50 metres of the bank of a waterbody, on State protected land, on flood liable land or on a permanent watercourse.

Disturbs an area less than 0.25 hectare—including the earthworks for construction of the dam and the area to be inundated.

Area of dam, including area to be inundated, must be at least 10 metres from any property boundary.

The dam and overflow provision must be designed to accommodate the 5% AEP storm event without nuisance to neighbouring or downstream properties.

Maximum of two per property.

Must not be located within 40 metres of any on-site sewage management system.

Note 1—

Before starting work you should ensure that the walls will be stable and the dam will hold water.

Note 2—

The *NSW Government Farm Dams Policy* (also known as the *Farm Dams Assessment Guide* and published in August 1999 by the Department of Land and Water Conservation) allows for dams to be constructed in certain circumstances without a Water Act licence. Other dams require a licence. The landowner should ensure the proposal complies with the policy before constructing a farm dam.

Decks/patios (unroofed and attached to dwellings)

(being erection of unroofed decks or patios that are attached to dwellings and their use)

Not on land within 50 metres of the bank of a waterbody, on State protected land, on flood liable land or within an asset protection zone.

Not involving a heritage item or within a conservation area.

Maximum area 10 square metres.

Finished surface level to be not greater than 1 metre above existing ground level.

Must not affect the structural integrity of the dwelling.

In an urban area, must be at least 7 metres from a boundary with a road or public place and at least 900 millimetres from any other boundary.

In a rural area, must be at least 20 metres from a boundary with a road or public place and at least 10 metres from any other boundary.

Must not unreasonably impact on privacy of neighbouring properties.

Water from any hard surface must be disposed of in a manner that does not cause nuisance to any person or on any premises.

One per dwelling.

Must be visually unobtrusive.

Demolition

(being the demolition of a building or work)

Not on land within 50 metres of the bank of a waterbody, on State protected land or on flood liable land.

Not involving a heritage item.

Only if:

- (a) the demolition is required by an order under section 121B of the Act, or
- (b) the demolition is of a building or work (other than a retaining wall), the construction of which would be exempt development under this plan.

Must be carried out to AS 2601—2001, *Demolition of structures*.

No materials, goods or machinery are to be stored, placed or otherwise permitted to stand on any public place.

Where the work involves or affects a public place, the person undertaking the work must produce evidence of public liability insurance cover for a minimum of \$10 million to the Council prior to the commencement of any work.

Must not involve the generation or handling of any hazardous or intractable waste.

No demolition materials are to be burnt or buried on the site.

Must not cause nuisance to the inhabitants of the surrounding neighbourhood from wind blown dust, debris, noise or the like.

Waste materials must be disposed of in an approved waste management facility.

Note—

The WorkCover Authority has advised that:

- (a) all care should be taken in work involving the removal of lead paint to avoid lead contamination, and
- (b) the work must comply with the WorkCover Authority's *Guidelines for Practices Involving Asbestos Cement*, published in June 2002.

Dog kennels and runs

(being the erection of dog kennels and runs and their use)

Not on land within 50 metres of the bank of a waterbody, on State protected land or on flood liable land.

One per dwelling.

Not for commercial use as an animal boarding establishment.

Maximum area 10 square metres.

Maximum height of any building, other than a fence or unroofed wire enclosure, 2.4 metres.

Maximum height of any fence or unroofed wire enclosure 1.8 metres.

Any building, other than a fence, must:

- (a) in an urban area, be at least 7 metres from a boundary with a road or other public place and at least 900 millimetres from any other boundary, or
- (b) in a rural area, be at least 20 metres from a boundary with a road or other public place and at least 10 metres from any other boundary.

Located in rear yard only.

Must be visually unobtrusive.

Environmental restoration works

General

Being any of the following:

- (a) removal of exotic species (that is, not naturally occurring local species) of vegetation followed by seeding or planting of vegetation in the disturbed area within 2 weeks of the cessation of the disturbance,
- (b) planting of trees, shrubs and other plants for revegetation purposes, not involving forestry, and

consisting of locally occurring native species only,

Note—

Plants to be used should be of local provenance where possible.

(c) removal of exotic species growing within a native vegetation remnant that has been fenced for the protection of the native vegetation, but only if removal is in a manner not detrimental to remaining vegetation,

(d) removal of noxious weeds by means not detrimental to the native ecosystem.

Must not involve the reshaping of the ground surface.

Must not interfere with flood behaviour, except in a beneficial way.

Special provisions—work within 20 metres of the banks of a waterbody (must comply with the above and also the following):

Removal of exotic species only and only by a means that does not involve the disturbance of the soil except to the minimum extent required for hand removal. Work may constitute any of the following methods: hand removal, cut and paint stump or stem injection.

Must involve revegetation, being planting with locally occurring native species of local provenance from the toe of the bank to at least 2 rows out from the top of the bank (extending at least 10 metres from the top of the bank in the tidal zone, at least 5 metres in other areas) in accordance with any revegetation guidelines prepared by the Department of Land and Water Conservation for that locality current at the time the works are carried out.

Note—

The further the planting extends out from the bank the better.

The work must not have a detrimental effect on riverbank stability.

Fences

(being the erection and use of fences, other than fences required by the Swimming Pools Act 1992)

Not involving a heritage item or within a conservation area.

General requirements—all fences

All fences are to be constructed so that they:

- (a) do not prevent the natural flow of stormwater drainage/run off, and
- (b) are not likely to cause damage to structures or vegetation should the fence be damaged in a flood, and
- (c) are of post and wire or rail construction permeable to flood waters if on flood liable land.

Must not involve the reshaping of the land surface.

Must be visually unobtrusive.

Side fences (between the building line and a street or any other public place) and front fences

If constructed of timber, metal or lightweight materials:

- (a) site area less than 2,000 square metres—maximum height 1 metre, or
- (b) site area more than 2,000 square metres—maximum height 1.8 metres.

If constructed of masonry or brick—maximum height 500 millimetres.

Side fences (between the building line and the rear boundary) and rear boundary fences

If constructed of timber, metal or lightweight materials—maximum height 1.8 metres.

If constructed of masonry or brick—maximum height 500 millimetres.

Security fences

Only if:

- (a) chain wire type fences around Council-owned compounds and depots, or
- (b) chain wire type fences around land within Zone No 4 (the Industrial Zone) with the fence setback a minimum of 6 metres from any road boundary.

Electric fences

To be erected in accordance with AS 3014—1991, *Electrical installation—Electric fences*, if connected to mains power supply.

Not adjacent to areas subject to regular pedestrian access in built up areas.

Fences for the control of livestock

Constructed of posts and wire or rails.

Construction must not involve damage to vegetation (unless that damage is, in itself, exempt development).

Fences—to protect riverbanks, revegetation and rehabilitation works or remnant native vegetation

Fencing must be located to ensure access for maintenance of the fence over its expected life.

Must not cause obstruction to water flow, including floodwaters.

Must be constructed of normal rural fencing materials and must not be of solid construction (for example, must not be of brick, stone, concrete block, corrugated iron or steel panel construction).

Fences to protect forestry plantations/orchards/crops and internal paddock dividing fences

Fencing must be located to ensure access for maintenance of the fence over its expected life.

Must not cause obstruction to water flow, including floodwaters.

Must be constructed of normal rural fencing materials and must not be of solid construction (for example, must not be of brick, stone, concrete block, corrugated iron or steel panel construction).

Note—

These requirements do not set aside the provisions of the [Dividing Fences Act 1991](#). You are advised to talk to your neighbour at an early stage and consult the [Dividing Fences Act 1991](#).

Flagpoles

(being the erection and use of flagpoles)

Not on land within 50 metres of the bank of a waterbody, on State protected land or on flood liable land.

Not within a conservation area.

Maximum height 6 metres above ground level.

Must not project beyond property boundaries.

Maximum flag area 3 square metres.

Ropes or cables used as stays or halyards must be adequately tensioned to prevent flogging.

Flag must not display advertising material.

One per dwelling.

Fuel tanks

(being the erection and use of fuel tanks and their stands)

Only on land within Zone No 1 (a1) or 1 (a2).

Not on land within 50 metres of the bank of a waterbody, on State protected land, on flood liable land or within an asset protection zone.

Maximum size 1,500 litres.

Above ground tanks only.

Located a minimum of 50 metres from any property boundary.

Maximum height 3 metres.

Constructed of prefabricated metal, free-standing and not relying on other structures for support, and erected in accordance with manufacturer's specifications.

Kept in accordance with AS 1940—1993, *The storage and handling of flammable and combustible liquids*.

Clearance from power lines to be in accordance with relevant electricity authority requirements.

Water from any hard surface must be disposed of in a manner that does not cause nuisance to any person or on any premises.

One per dwelling.

Must be visually unobtrusive.

Garage sales

(being the use of a garage and the curtilage of a dwelling for the purpose of selling miscellaneous items)

Sale of personal items by permanent residents of the dwelling only.

No more than 48 hours duration.

Maximum of 2 per year.

A sign advertising the sale up to 1 square metre in size may be erected on the site on the day of the sale. Any such sign must not be attached to a tree.

Garden sheds

(being the erection and use of garden sheds)

Not on land within 50 metres of the bank of a waterbody, on State protected land, on flood liable land or within an asset protection zone.

Maximum floor area 10 square metres.

Maximum height 2.1 metres.

Must be located in the rear yard.

In an urban area, must be at least 7 metres from a boundary with a road or public place and at least 900 millimetres from any other boundary.

In a rural area, must be at least 20 metres from a boundary with a road or public place and at least 10 metres from any other boundary.

Water from any hard surface must be disposed of in a manner that does not cause nuisance to any person or on any premises.

One per dwelling.

Must be visually unobtrusive.

Goal posts, sight screens and similar ancillary sporting structures

(being the erection of goal posts, sight screens and similar ancillary sporting structures (but not grandstands, dressing sheds and other structures which accommodate people) on sporting or playing fields and their use in connection with sporting events)

Not on land within 50 metres of the bank of a waterbody, on State protected land or on flood liable land.

Only in the following circumstances:

- (a) if located in public parks or recreation areas and constructed by or for the Council, or
- (b) if located on school premises.

Must be installed in accordance with relevant Australian Standards and the *Building Code of Australia*.

Greenhouses

(being the erection and use of greenhouses)

Not on land within 50 metres of the bank of a waterbody, on State protected land or on flood liable land.

Maximum area 10 square metres.

Maximum height of 2.4 metres.

Located in rear yard only.

Roof water and water from any hard surface must be disposed of in a manner that does not cause nuisance to any person or on any premises.

One per dwelling.

Must be visually unobtrusive.

Home occupations

(not including the operation of bed and breakfast style accommodation)

Note—

Home occupation is defined in the Dictionary.

Horse stables and yards

(being the erection and use of horse stables and yards)

Not on land within 50 metres of the bank of a waterbody, on State protected land or on flood liable land.

On land within Zone No 1 (a1), 1 (a2), 1 (c1), 1 (c2), 1 (c3), 1 (d), or 4 only.

Maximum area 20 square metres.

Maximum height of any building, other than a fence, 3.5 metres.

Maximum height of any fence or unroofed yard 1.8 metres.

Any building, other than a fence, must:

- (a) in an urban area, be at least 7 metres from a boundary with a road or other public place and at least 900 millimetres from any other boundary, or
- (b) in a rural area, be at least 20 metres from a boundary with a road or other public place and at least 10 metres from any other boundary.

Erected at least 30 metres from any dwelling not associated with the stable, public hall, school or premises used for the manufacture, preparation, sale or storage of food.

Roof water and water from any hard surface must be disposed of in a manner that does not cause nuisance to any person or on any premises.

Must be visually unobtrusive.

Internal pathways, driveways, access tracks and creek crossings

(being the construction and use of pathways, driveways, access tracks or creek crossings)

Used for:

- (a) access to a private home and ancillary buildings, legally erected, on land held in the one ownership, unless any relevant approval or consent for those structures contains specific requirements for the construction, maintenance or use of access, or
- (b) stock and vehicle movements within land held in the one ownership for the purposes of normal farm management and operation.

Any crossing of a waterbody or gully must be in accordance with a permit issued for the work under section 3A of the [Rivers and Foreshores Improvement Act 1948](#), where such permit is required.

Not involving the construction of roads or tracks involving the alteration of natural landform.

Not involving the construction of any bridge or causeway or similar structure or work, or the excavation or alteration of any bank.

To be structurally sound and of stable construction with adequate reinforcement.

Not to be elevated or suspended above natural ground level.

Landscaping and gardening

(being development such as landscaping, gardening, the carrying out and use of paving or the erection and use of minor structures (for example, fountains, birdbaths or ponds) that is ordinarily incidental or ancillary to a lawful use authorised by an approval or development consent, or that does not require such approval or consent)

Not involving a heritage item.

Any ancillary structure must be erected at least 1 metre from the boundary of the site and extend no more than 3 metres above natural ground level.

Any ancillary structure must not cover more than 10 square metres.

Must not involve excavation deeper than 500 millimetres below natural ground level.

The disturbed area must not be more than 150 square metres.

Roof water and water from any hard surface must be disposed of in a manner that does not cause nuisance to any person or on any premises.

Must not involve the planting of any environmental weed.

Letterboxes

(being the erection and use of letterboxes that are free standing or in “banks”)

Maximum height of 1.2 metres above ground level.

Number of boxes not to exceed the total number of dwellings and businesses on the site.

Must be accessible to people with disabilities (if servicing more than a single residence).

Must not contravene any condition of any development consent applying to the site.

Must not be visually unobtrusive.

Must be located on private land (not on the road reserve—footpath, road verge etc).

Minor internal alterations

(being replacement of doors, walls, ceilings or floor linings, and deteriorated frame members, with the same, equivalent or similar materials that are compatible with the existing building, and renovations of bathrooms, kitchens, and the inclusion of built-in fixtures such as vanities, cupboards and wardrobes)

Not involving a heritage item or within a conservation area.

Residential premises

The building must have been lawfully erected.

Applies only to alterations or renovations to previously completed buildings.

Must not include changes to the configuration of rooms whether or not by changes to openings, existing walls, partitions or other means of structural support.

Work must not change window arrangements for light and ventilation needs, reduce a doorway for egress purposes or involve enclosure of an open area.

Commercial premises

Alteration or renovations involving fixtures and fittings in food premises are not included in this item.

Non-structural works such as shelving, displays and benches and partitions that do not provide structural support to any part of the building are included in this item.

Existing floor area not to exceed 200 square metres.

Work must not compromise fire safety or access to a fire exit.

Must not involve a change in the use of any part of the building.

Must not include changes to the configuration of rooms whether by changes to openings, existing walls, partitions or other means of structural support.

Must not change window arrangements for light or ventilation needs, reduce the size of a doorway for egress purposes or involve enclosure of an open area.

The building must have been lawfully erected.

Note 1—

The WorkCover Authority has advised that:

- (a) all care should be taken in work involving the removal of lead paint to avoid lead contamination, and
- (b) the work must comply with the WorkCover Authority's *Your Guide to Working with Asbestos*, published in June 2002.

Note 2—

The alteration should not affect the structural strength and stability of the building. For example, external walls are often strengthened and stabilised by internal walls that resist loads such as wind forces. The removal of internal walls without considering overall strength and stability may result in failure of the structure. You are advised to contact a structural engineer, architect or building surveyor before commencing alterations to ensure you comply with the *Building Code of Australia* (BCA) and will not affect the structural sufficiency and stability of the building. Compliance with the BCA is a requirement for all exempt development involving a building.

Minor external alterations and renovations to Class 1 and 10 buildings only

(being the painting, repair, renewal or recladding of doors, roofs or walls, but not including removal or reduction in size of windows)

Not involving a heritage item or within a conservation area.

Must only involve replacing existing materials with the same or similar materials which are compatible with the existing building and finish.

Must not involve structural alterations or change to the external configuration of the building.

Selection of colour and materials must complement the neighbourhood amenity.

Must be visually unobtrusive.

Note 1—

The WorkCover Authority has advised that:

- (a) all care should be taken in work involving the removal of lead paint to avoid lead contamination, and
- (b) the work must comply with the WorkCover Authority's *Your Guide to Working with Asbestos*, published in June 2002.

Note 2—

The alteration should not affect the structural strength and stability of the building. For example, external walls are often strengthened and stabilised by internal walls that resist loads such as wind forces. The removal of internal walls without considering overall strength and stability may result in failure of the structure. You are advised to contact a structural engineer,

architect or building surveyor before commencing alterations to ensure you comply with the *Building Code of Australia* (BCA) and will not affect the structural sufficiency and stability of the building. Compliance with the BCA is a requirement for all exempt development involving a building.

Park and street furniture

(being the erection and use of seats, bins, picnic tables, drinking fountains, street lights or minor shelters not including bus shelters)

Construction by or for the Council and designed, fabricated and installed in accordance with relevant Australian Standards and the *Building Code of Australia*.

Located on land under the control of the Council.

Roof water and water from any hard surface must be disposed of in a manner that does not cause nuisance to any person or on any premises.

Must be visually unobtrusive.

Paths and staircases installed in public parks and recreation spaces

(being the construction of paths and staircases in public parks and recreation spaces and their use)

Constructed by or for the Council.

Designed, fabricated and installed in accordance with the *Building Code of Australia* (Section B) and AS 4100—1998, *Steel structures*, AS 1720, *Timber structures* and AS 3600—2001, *Concrete structures*.

Must comply with the *Australian National Parks and Wildlife Service Walking Track Management Manual* standards if applicable.

Water from any hard surface must be disposed of in a manner that does not cause nuisance to any person or on any premises.

Works must not adversely affect the stability of the bed or bank or the flow of water in a waterbody.

Must be visually unobtrusive.

Where the land is a Crown reserve, works are to be in accordance with a plan of management under the [Crown Lands Act 1989](#).

Pergolas

(being the erection and use of open pergolas supported from ground level)

Note—

Roofed or enclosed pergolas require consent.

Not on land within 50 metres of the bank of a waterbody, on State protected land or on flood liable land.

Not involving a heritage item unless the pergola is to be in the rear yard.

Maximum area 20 square metres.

Maximum height 2.4 metres.

In an urban area, must be at least 7 metres from a boundary with a road or public place and at least 900 millimetres from any other boundary.

In a rural area, must be at least 20 metres from a boundary with a road or public place and at least 10 metres from any other boundary.

No roof or wall cladding.

Water from any hard surface must be disposed of in a manner that does not cause nuisance to any person or on any premises.

Maximum of two per site.

Must be visually unobtrusive.

Playground equipment

(being the erection and use of playground equipment)

Not on land within 50 metres of the bank of a waterbody, on State protected land or on flood liable land.

General—all equipment

Structure must be at least 1.2 metres away from a pool safety fence measured in accordance with clause 2.3 of AS 1926, *Swimming pool safety*.

Must be installed in accordance with manufacturer's instructions and comply with relevant AS 1924, *Playground equipment for parks, schools and domestic use* and AS 2555—1982, *Supervised adventure playgrounds—Guide to establishment and administration*.

Rear yard only.

Water from any hard surface must be disposed of in a manner that does not cause nuisance to any person or on any premises.

Must be visually unobtrusive.

In conjunction with a residence

Maximum height 2.4 metres.

Not in conjunction with a residence

Maximum height 2.4 metres.

Maximum ground coverage 10 square metres.

Adequate safety arrangements, including soft landing surfaces, to be provided.

On community land as defined in the *Local Government Act 1993*

Must be constructed by or for the Council.

On school premises

Only to be used for school purposes.

Poultry yards

(being erection of a poultry yard and its use only for the keeping of chickens, hens and roosters, guinea fowls, turkeys, geese and ducks)

Not on land within 50 metres of the bank of a waterbody or on flood liable land.

If for the purpose of housing fowls (including guinea fowls), the yard must not be erected within 4.5 metres of a dwelling not associated with the yard, a public hall, a school or any premises used for the manufacture, preparation, sale or storage of food.

If for the purpose of housing poultry other than fowls, the yard must not be erected within 30 metres of any building referred to above.

The floors of poultry housing must be paved with concrete or mineral asphalt underneath the roosts or perches. This requirement does not apply to poultry yards:

- (a) that are more than 15.2 metres from the nearest dwelling not associated with use of the yard, or from the nearest public hall or school, or
- (b) that are situated on clean sand.

Maximum area of 10 square metres and a maximum of 6 adult birds in Zone No 2 (a) or 2 (b).

Maximum area of 50 square metres in zones other than Zone No 2 (a) or 2 (b).

Maximum height of any building, other than a fence or unroofed wire enclosure, 2.4 metres.

Maximum height of any fence or unroofed wire enclosure 1.8 metres.

Any building, other than a fence, must:

- (a) in an urban area, be at least 7 metres from a boundary with a road or other public place and at least 900 millimetres from any other boundary, or
- (b) in a rural area, be at least 20 metres from a boundary with a road or other public place and at least 10 metres from any other boundary.

Adequate drainage must be provided.

Roof water and water from any hard surface must be disposed of in a manner that does not cause nuisance to any person or on any premises.

Located in rear yard only.

One per dwelling.

Must be visually unobtrusive.

Note—

Consideration should be given to avoiding potential noise nuisance for neighbours when choosing the location, and the number and type of birds to be kept.

Public meetings

(being the use of a class 9b building for the purpose of a public meeting)

Re-cladding of roofs or walls or repair/maintenance of damaged materials

Not involving a heritage item.

Must only involve replacing existing materials with similar materials, which are compatible with the existing building and finish.

Re-cladding must not involve structural alterations or change to the external configuration of a building.

The building must have been lawfully erected.

Must be visually unobtrusive.

Note—

The WorkCover Authority has advised that:

- (a) all care should be taken in work involving the removal of lead paint to avoid lead contamination, and
- (b) the work must comply with the WorkCover Authority's *Your Guide to Working with Asbestos*, published in June 2002.

Retaining walls

(being the construction and use of retaining walls)

Not on land within 50 metres of the bank of a water body or on flood liable land.

This exemption does not apply to retaining walls that provide structural support to buildings or roadways.

Maximum height 600 millimetres.

Masonry walls to comply with:

- (a) AS 3700—2001, *Masonry structures*,
- (b) AS 3600—2001, *Concrete structures*,
- (c) AS 1170, *Minimum design loads on structures*.

Timber walls to comply with:

- (a) AS 1720, *Timber structures*,
- (b) AS 1170, *Minimum design loads on structures*.

All retaining walls are to be constructed so that they do not prevent the natural flow of stormwater drainage and run-off.

Must be located at least 1 metre from any property boundary.

Water from any hard surface must be disposed of in a manner that does not cause nuisance to any person or on any premises.

Must be visually unobtrusive.

Satellite dishes

(being the erection and use of satellite communications dishes)

Not involving a heritage item or within a conservation area.

On residential properties

Must be for domestic use only.

Maximum height: ground mounted—1,800 millimetres; roof mounted—800 millimetres.

Maximum diameter 1,000 millimetres.

One per dwelling.

Not visible from a public place.

A minimum of 900 millimetres from a property boundary.

If roof mounted, located on rear section of roof, below ridge line of roof.

Must be visually unobtrusive.

On commercial properties

Maximum height: ground mounted—1,800 millimetres; roof mounted—1,200 millimetres.

Maximum diameter 1,000 millimetres.

Situated a minimum of 900 millimetres from the boundary if the adjoining property is residential.

One installation per property.

Not visible from a public place.

If roof mounted, located on rear section of roof.

Must be visually unobtrusive.

Scaffolding

(being the erection and use of scaffolding)

Not to encroach onto footpath or public thoroughfare.

To have sufficient structural strength to withstand and be impenetrable to the impact of falling rubble.

Must enclose the work area.

Must comply with AS 1576, *Scaffolding*.

Note—

All scaffolding must meet relevant WorkCover Authority requirements.

Skylight roof windows (non-opening)

(being the installation of non-opening skylight roof windows)

Not involving a heritage item.

Maximum area of skylight not to exceed 1 square metre.

Located not less than 900 millimetres from a property boundary and not less than 900 millimetres from a wall separating attached dwellings.

The building work must not reduce the structural integrity of the building or involve structural alterations.

Any opening created by the installation must be adequately weatherproofed.

Installation must be to manufacturer's instructions.

Must be visually unobtrusive.

Note—

Consideration should be given to the impact of a skylight on the heat load of the building.

Solar and convection water heaters and household power generation units

(being the installation and use of convection water heaters and household electric power generation units)

Not involving a heritage item if visible from the outside of the building.

Installed to manufacturer's specifications and requirements.

Installed by a licensed tradesperson.

Associated building work must not reduce the structural integrity of the building or involve structural alterations.

Any openings created by an installation must be adequately weatherproofed.

Must be installed flush with the roof unless it is not visible from a public place.

Must be visually unobtrusive.

Stockyards

(being the erection and use of stockyards)

On land within Zone No 1 (a1), 1 (a2), 1 (c1), 1 (c2), 1 (c3) or 1 (d) only.

Not on land within 50 metres of the bank of a waterbody, on State protected land or on flood liable land.

To be used in conjunction with normal agricultural activities carried out on the land only.

Roofed area not greater than 20 square metres.

Does not alter or create a new access onto a public road.

A stock truck must be able to manoeuvre to and from the loading race in a manner not dangerous to traffic and to stand wholly off the public road carriageway to load and unload livestock, if the structure is designed for this purpose.

Located more than 200 metres from the nearest dwelling not located on the same property and more than 100 metres from the nearest waterbody.

Fences must be structurally sound and capable of restraining stock.

No height restriction for fences.

Roof water and water from any hard surface must be disposed of in a manner that does not cause nuisance to any person or on any premises.

Must be visually unobtrusive.

Note—

Consent is required where it is proposed to handle stock on a commercial basis not involved with production on the property.

Street signs

(being the erection of street signs comprising name plates, directional signs and advance traffic warning signs)

Construction or installation by or for the Council.

Must be structurally sound.

To be designed, fabricated and installed in accordance with relevant Australian Standards.

Water heaters (excluding solar systems)

(being the installation and use of water heaters, excluding solar water heating systems)

The work must not reduce the structural integrity of the building or involve structural alterations.

Installation to be carried out by a licensed person.

Must be inside a building or in the rear yard.

Water tanks—at or above ground level

(being the installation or erection of water tanks at or above ground level and their use)

Not on land within 50 metres of the bank of a waterbody, on State protected land or on flood liable land.

Not within a conservation area.

Located in rear yard only.

Not to be located on a support stand with an average height of more than 600 millimetres above ground level.

Maximum overall height 3 metres.

Installation and stands are to be structurally sound and comply with the manufacturer's specifications.

Rural areas maximum 50,000 litres capacity per tank.

Urban areas maximum storage capacity of 10,000 litres.

In an urban area, must be at least 7 metres from a boundary with a road or public place and at least 900 millimetres from any other boundary.

In a rural area, must be at least 20 metres from a boundary with a road or public place and at least 10 metres from any other boundary.

Tank not to rest on footing of building or rely upon wall for support.

Where reticulated water is provided, tank must not be interconnected with any system supplying drinking water unless fitted with mechanical backflow prevention devices in accordance with AS 2845, *Water supply—backflow prevention devices*.

Provision must be made to prevent overflow creating a nuisance or erosion.

Must be visually unobtrusive.

Note—

This exemption does not apply to installations below ground or on land that requires excavation.

Windows and glazed areas

(being the replacement of windows and glazed areas of residential premises)

Must only involve replacing existing materials with the same materials or similar materials that are compatible with the existing building and finish.

Replacement must be with materials that comply with:

- (a) AS 1288—1994, *Glass in buildings—Selection and installation*, and
- (b) AS/NZS 2208:1996, *Safety glazing materials in buildings*.

Must not reduce the area provided for light or ventilation.

Must not involve removal or alteration of structural support members.

Note—

The WorkCover Authority has advised that all care should be taken in work involving the removal of lead paint to avoid lead contamination and the Authority's *Your Guide to Working with Asbestos*, published in June 2002, should be referred to for any work involving asbestos cement.

Schedule 2 Complying development

(Clause 8)

Note—

Check requirements contained in clause 8 before consulting this Schedule.

A reference in this Schedule to a code or policy of the Council is to the code or policy as in force when this plan commenced, unless this Schedule provides otherwise.

Bed and breakfast accommodation

(being the use of an existing lawful dwelling-house for the temporary accommodation of visitors for commercial purposes)

Within Zone No 2 (a) or 2 (b) only.

Does not include the display of signs.

Note—

See separate provisions about display of signs.

The owner or operator must be a permanent resident of the dwelling-house.

The dwelling-house to contain a maximum of 4 bedrooms.

Only one bedroom, to accommodate a maximum of 2 persons only, is to be used for visitor accommodation.

A minimum of 2 bathrooms are provided in the dwelling-house, one for residents, one for visitors.

Note—

Construction of an additional bathroom requires a development application unless it is within another category of complying development.

The dwelling-house must be connected to a reticulated sewer system.

The dwelling-house must not contain any facilities in the visitor room for the preparation of food by guests (eg kitchen, sink and the like).

A fire safety system that complies with Part 3.7 of Volume 2 of the *Building Code of Australia* is in the dwelling-house.

A portable fire extinguisher and fire blanket must be installed in the kitchen.

Car parking, in accordance with the Council's *Off Street Vehicle Parking Code*, is provided. One car

parking space for the permanent residents of the dwelling-house and one space for the bedroom used for visitor accommodation must be provided.

Access and facilities for persons with disabilities must be fully provided in accordance with AS 1428.1:2001, *Design for access and mobility, Part 1: General requirements for access—New building work*. This includes the provision of an accessible car parking space in accordance with the standard. An accessible, continuous path of travel must be available from that space to the dwelling-house.

Vehicular access complies with or will be reconstructed to comply with the Council's *Vehicular Access (Investigation, Design and Construction) Policy*.

Meets all relevant criteria in this item without:

- (a) damage to vegetation, unless that damage is exempt development,
- (b) construction within the dripzone of any plant, unless its damage or removal is exempt development.

Note—

If alterations or additions to a dwelling-house are needed to allow its use for bed and breakfast accommodation, the next item may apply.

Alterations and additions to dwelling-houses

(being alterations or additions to a lawfully erected single-storey dwelling-house)

On land within Zone No 2 (a) or 2 (b) only.

Not on land within 50 metres of the bank of a waterbody.

Must not involve the creation of an attached dual occupancy.

Must comprise less than a 50% increase in the existing floor area of the dwelling-house.

Must not involve the creation of more than 5 rooms capable of being used as bedrooms.

Must be connected to reticulated sewer system.

The site coverage ratio must be no greater than 0.5:1.

Slope of natural ground level within the principal development area must not exceed 20%.

The building, after the alterations and additions, must have no more than one room that is capable of being used as a kitchen.

Must not result in building higher than a single storey.

Car parking, in accordance with the Council's *Off Street Vehicle Parking Code*, is provided.

Meets all relevant criteria in this Schedule and the outcomes specified for the development in Schedule 3 without:

- (a) damage to vegetation, unless that damage is exempt development, or

- (b) construction within the dripzone of any plant, unless its damage or removal is exempt development.

Outcomes required for bed and breakfast accommodation—Group A

Garages and carports

(being the erection and use of garages and carports associated with single dwelling-houses)

On land within Zone No 2 (a), 2 (b) or 3 only.

The allotment on which the garage or carport is erected must have an area of at least 450 square metres.

Meets all relevant criteria in this Schedule and the outcomes specified for the development in Schedule 3 without:

- (a) damage to vegetation, unless that damage is exempt development, or
- (b) construction within the dripzone of any plant, unless its damage or removal is exempt development.

Outcomes required for garages and carports—Group A

Swimming pools

(being development for the purpose of a swimming pool on an allotment larger than 450 square metres where the pool is ancillary to a single dwelling-house on the same allotment that is occupied for private use only)

Backwash must be discharged to the Council's reticulated sewer system in accordance with AS/NZS 3500.2.2:1996, *Part 2.2: National Plumbing and Drainage—Sanitary plumbing and drainage—Acceptable solutions*, Section 10.9 and Figure 10.2, where sewer is available or comply with the principles of AS/NZS 1547:2000, *On-site domestic wastewater management*.

Meets all relevant criteria in this Schedule and the outcomes specified for the development in Schedule 3 without:

- (a) damage to vegetation, unless that damage is exempt development, or
- (b) construction within the dripzone of any plant, unless its damage or removal is exempt development.

Outcomes required for swimming pools—Group B

Schedule 3 Required outcomes for complying development

(Clause 8)

Group A—Alterations and additions to dwelling-houses, garages and carports

Streetscape

Each part of the structure complies with any building setback or other siting requirement specified for the land in an environmental planning instrument or development control plan.

The site is not cut or filled so as to alter a level by more than 1 metre.

Carports and garages facing a public road or accessway have a width of not more than 50% of the frontage or 6 metres, whichever is the lesser.

The original height of the building is unaltered, with a maximum height for the new work of 5 metres.

Roof forms match those of the existing building and complement adjacent buildings.

Must be visually unobtrusive.

Garage doors, when open, do not impede traffic (vehicular or pedestrian) on the public road or accessway.

Materials match existing materials.

Window frames match the existing.

Sheet metal cladding is not used for external walls.

A dwelling-house facing a public road or accessway has a front door or window, at least 1 square metre in area, to a habitable room facing the street.

Bulk and scale

The finished floor level of the structure at any point is not more than 500 millimetres above natural ground level.

The roof pitch matches the existing (to a maximum of 30°) and any roof openings are flush with the roof pitch.

The main area of private open space of any adjoining property, to a maximum of 100 square metres, and any habitable rooms in that property, are not in shadow between 10 am and 3 pm on 21 June, as a result of the development.

The external wall of each structure affected by the proposed development is at least 900 millimetres from the nearest side boundary and the rear boundary.

Privacy and security

Windows in a habitable room that are within 9 metres of, and allow an outlook to, a window of a habitable room in a neighbouring dwelling:

- (a) are offset from the edge of one window to the nearest edge of the other by a distance of at least 0.5 metre, or
 - (b) have sill heights of at least 1.7 metres above floor level, or
 - (c) have fixed obscure glazing in any part of the window below 1.7 metres above floor level,
- unless the properties are separated by a common boundary fence that interrupts the view between

the windows.

Open space and landscaping

A minimum of 35% of the site is maintained as soft landscaping, that is, not be covered by a building or an impervious surface.

Not more than 35% of the front setback area is paved or sealed.

An area of private open space is provided for the dwelling at the rate of at least 50 square metres per 1 or 2 bedroom dwelling, and at least 80 square metres for dwellings containing 3 or more bedrooms.

The private open space is directly accessible from the main living area of the dwelling and capable of serving as an extension of the dwelling for relaxation, dining, entertainment, recreation and children's play.

The private open space is not located between the dwelling and the front boundary.

The private open space is not in shadow between 10 am and 3 pm on 21 June.

One part of the private open space has an area of 25 square metres with a minimum dimension of 4 metres, maximum grade of 12.5% and is directly accessible from the main living area in the dwelling.

To be counted as private open space, an area must not have any dimension less than 2.5 metres.

Site access and circulation

Maximum of 1 driveway per allotment.

Vehicular access complies with the Council's *Vehicular Access (Investigation, Design and Construction) Policy*.

Group B—Swimming pools

Streetscape

The pool is not located between the dwelling and the front boundary.

Bulk, scale and location

All coping or decking around the pool is not more than 500 millimetres above the natural ground level.

The pool, including any associated decking, is at least 1.5 metres from the side and rear boundaries of the site.

The water surface area of the pool does not exceed 50 square metres.

Pedestrian access is available around the entire perimeter of the pool.

The site is not cut or filled so as to alter a level by more than 1 metre.

Open space and landscaping

A minimum of 35% of the site is soft landscaped, that is, not covered by a building, an impervious surface or the pool.

Privacy

The noise level of any filtration equipment or pumps does not exceed 5 dB(A) above the ambient background level measured at the property boundary.

Where the pool or its surrounds are within 9 metres of, and allow an outlook to, a window of a habitable room in a dwelling, verandah or private open space on a different allotment, the pool is screened to prevent such outlook.

Lighting of the pool and surrounds does not cause interference with the quiet enjoyment of neighbouring properties.

Installation and construction

The installation and construction of the pool complies, where relevant, with:

- (a) AS/NZS 1838:1994, *Swimming pools—Premoulded fibre-reinforced plastics—Design and fabrication* and AS/NZS 1839:1994, *Swimming pools—Premoulded fibre-reinforced plastics—Installation*, or
- (b) AS 2783—1992, *Use of reinforced concrete for small swimming pools*.

The pool and surrounding structures

The swimming pool and surrounding structures comply with AS 1926.2—1995, *Swimming pool safety—Location of fencing for private swimming pools*.

Schedule 4 Conditions of complying development certificates

(Clause 8)

Note—

Complying development must be carried out in accordance with the conditions of the complying development certificate and the requirements of all environmental planning instruments (including this plan), development control plans and regulations under the Act that applied to the land concerned when the complying development certificate was issued (see section 84A (1) of the Act).

General—all certificates

- (1) All building work must be carried out in accordance with the provisions of the *Building Code of Australia*.

This requirement does not apply to the extent to which an exemption is in force under clause 187 or 188 of the [Environmental Planning and Assessment Regulation 2000](#), subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4) of that regulation.

- (2) A building in respect of which there is a change of building use to a class 1b building must comply with the provisions in P2.3.2 of Volume 2 of the *Building Code of Australia*.
- (3) Building work that involves residential building work (within the meaning of the [Home Building Act 1989](#)) must not be carried out unless the principal certifying authority for

the development to which the work relates:

(a) in the case of work to be done by a licensee under that Act:

- (i) has been informed in writing of the licensee's name and contractor licence number, and
- (ii) is satisfied that the licensee has complied with the requirements of Part 6 of that Act, or

(b) in the case of work to be done by any other person:

- (i) has been informed in writing of the person's name and owner-builder permit number, or
- (ii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in section 29 of that Act,

and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

- (4) A certificate purporting to be issued by an approved insurer under Part 6 of the *Home Building Act 1989* that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this condition, sufficient evidence that the person has complied with the requirements of that Part.
- (5) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- (6) If the soil conditions require it:
 - (a) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided, and
 - (b) adequate provision must be made for drainage.
- (7) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made must preserve and protect the building from damage.
- (8) If the work involved in the erection or demolition of a building:
 - (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed

or rendered inconvenient, or

(b) building involves the enclosure of a public place,

a hoarding or fence must be erected between the work site and the public place.

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Any such hoarding, fence or awning is to be removed when the work has been completed.

(9) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:

(a) stating that unauthorised entry to the work site is prohibited, and

(b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

Any such sign is to be removed when the work has been completed.

This condition does not apply to:

(a) building work carried out inside an existing building, or

(b) building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.

(10) Toilet facilities must be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, if access to existing toilets is not adequate.

Each toilet provided:

(a) must be a standard flushing toilet, and

(b) must be connected:

(i) to a public sewer, or

(ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or

(iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.

In this condition:

accredited sewage management facility means a sewage management facility to which Part 4 of the *Local Government (Approvals) Regulation 1999* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 43 of the Regulation.

approved by the Council means the subject of an approval in force under Part 2 of the *Local Government (Approvals) Regulation 1999*.

public sewer has the same meaning as it has in the *Local Government (Approvals) Regulation 1999*.

sewage management facility has the same meaning as it has in the *Local Government (Approvals) Regulation 1999*.

- (11) The development must be carried out in accordance with the “approved plans” endorsed by the Certifier, the details and conditions attached to this certificate and in accordance with the conditions of this complying development certificate. A copy of this certificate and the approved plans must be kept on site at all times while work is being undertaken.

The “approved plans” are:

[insert list of relevant documents]

- (12) The development must at all times comply with the requirements (copy attached) specified for the development in *Bellingen Local Environmental Plan 2003* on the date of issue of this certificate.
- (13) At least two days before any site works, building or demolition begins, the applicant must:
- (a) give written notice of commencement of work and appointment of principal certifying authority to the Council,
 - (b) notify the adjoining owners in writing that work will commence.
- (14) The site and surrounding areas are to be kept in a clean and tidy condition at all times. Waste must be contained in a suitable receptacle until removed from the site.
- (15) Any construction works involving the generation of noise which extends beyond the boundary of the premises must be confined to the hours between 7 am and 6 pm Monday to Friday and 8 am to 5 pm Saturdays, and not be carried out on Sundays or public holidays.

- (16) Heavy equipment utilised on the site must be fitted with residential type muffler systems and appropriate certification must be submitted to and approved by the Council's Director of Environmental Health and Planning prior to commencement of work.
- (17) Construction materials, building waste containers and "skips" and the like are not to be placed within the public road reserve without separate written consent from the roads authority under the *Roads Act 1993*.
- (18) Appropriate measures are to be taken to prevent damage to trees and other vegetation that are to be retained (including root systems) during site works and construction. Trees and other vegetation to be retained are to be protected by the erection of suitably sturdy protective fencing located on the edge of or outside the dripzone. Fencing must be in place prior to the commencement of any works on the site and must remain in place until the works are complete. No building materials or other items are to be placed or stored within the fenced-off areas.
- (19) Works must be undertaken on the site to prevent erosion and transport of soil and sediment off the site and onto adjoining properties.
- (20) All construction within the road reserve (including driveways, retaining walls, letterboxes, drains and the like) must be in accordance with a consent issued under the provisions of the *Roads Act 1993* for the work required in association with this development, and comply with Bellingen Council's *Standard Conditions for Engineering Works Associated With Developments*.

Bed and breakfast

Kitchen is to be fitted out in accordance with the Council's *Food Premises Code*.

Alterations and additions to dwelling-houses

- (1) All building work must be carried out in accordance with the provisions of the *Building Code of Australia* and with the approved plans and specifications.

Note—

Where the Council is the principal certifying authority, the following aspects of the building works, where relevant, must be inspected and approved by Council at the following stages. The Council requires 48 HOURS PRIOR NOTICE to permit inspection of these works.

Stages of building work:

- (a) Trenches with steel in position before footings are laid. Sediment and erosion control measures must also be in place.
- (b) Pier holes before concrete is poured.
- (c) Concrete slabs and beams with steel in position before concrete is poured.

- (d) Framing and roof members with plumbing roughed in and water connected prior to installation of internal lining.
- (e) Sewer drains prior to backfilling of trenches.
- (f) Completion of works prior to occupation or use.

Prior to the issue of the final compliance certificate, evidence shall be submitted to the Council from a licensed electrician that:

- (a) the smoke alarm unit complies with AS 3786—1993, *Smoke alarms* or is listed in the Scientific Services laboratory (SSL) *Register of Accredited Products—Fire Protection Equipment*, and
- (b) the smoke alarm system is connected to the mains electrical power supply and has a standby (battery backup) power supply.

(2) Before any site works, building or demolition begins, the applicant must:

- (a) notify the Council of the name, address, phone number and licence number of the builder, and
- (b) erect a sign at the front of the property with the builder's name, licence number, site address and the number given by the Council to the application for the complying development certificate, and
- (c) protect and support any neighbouring buildings, and
- (d) protect any public place from obstruction, inconvenience or damage due to the carrying out of the development, and
- (e) prevent any substance from falling onto any public place, and
- (f) comply with any other conditions prescribed by the [Environmental Planning and Assessment Regulation 2000](#).

This item does not impose a requirement on an applicant if it is complied with by the builder.

No construction access is permitted other than at the vehicle entry points shown on the approved plans. All loading, unloading and storage of materials for works is to take place within the site.

- (3) Removal or disturbance of vegetation and top soil must be confined to within 3 metres of the construction work. Disturbance must not occur outside this area.
- (4) All plumbing work shall be carried out by a licensed plumber and drainer and in accordance with AS 3500, *National Plumbing and Drainage Code* and NSW variations.

In particular, pipework is to be bedded and secured in accordance with relevant provisions.

Note 1—

Granular bedding required to all drains.

Note 2—

Water must not be drawn from the Council's water supply until a meter has been installed by the Council's water operator.

- (5) Water efficient devices must be installed where appropriate, including:
- (a) pressure limiting valves, and
 - (b) dual flush toilet systems, and
 - (c) shower saver water nozzles.
- (6) The Council's water supply must be protected in accordance with AS 3500.1, *National Plumbing and Drainage Code, Part 1: Water supply*—Section 4.
- (7) Stormwater must be collected and drained via a gravity system to a Council stormwater system or disposed of on-site in a manner that does not create erosion, adversely affect the operation or performance of an on-site sewage management system or cause a nuisance on, or to occupiers of, adjoining or adjacent properties.

Garages and carports

- (1) All building work must be carried out in accordance with the provisions of the *Building Code of Australia* and with the approved plans and specifications.

Note—

Where the Council is the principal certifying authority, the following aspects of the building works, where relevant, must be inspected and approved by the Council at the following stages. The Council requires 48 HOURS PRIOR NOTICE to permit inspection of these works.

Stages of building work:

- (a) Trenches with steel in position before footings are laid. Sediment and erosion control measures must also be in place.
- (b) Pier holes before concrete is poured.
- (c) Concrete slabs and beams with steel in position before concrete is poured.
- (d) Framing and roof members with plumbing roughed in and water connected prior to installation of internal lining.
- (e) Completion of works prior to occupation or use.

- (2) Before any site works, building or demolition begins, the applicant must:
- (a) notify the Council of the name, address, phone number and licence number of the builder, and
 - (b) erect a sign at the front of the property with the builder's name, licence number, site address and the number given by the Council to the application for the complying development certificate, and
 - (c) protect and support any neighbouring buildings, and
 - (d) protect any public place from obstruction, inconvenience or damage due to the carrying out of the development, and
 - (e) prevent any substance from falling onto any public place, and
 - (f) comply with any other conditions prescribed by the *Environmental Planning and Assessment Regulation 2000*.

This item does not impose a requirement on an applicant if it is complied with by the builder.

- (3) No construction access is permitted other than at the vehicle entry points shown on the approved plans. All loading, unloading and storage of materials for works is to take place within the site.
- (4) Removal or disturbance of vegetation and top soil must be confined to within 3 metres of the construction work. Disturbance must not occur outside this area.
- (5) Stormwater must be collected and drained via a gravity system to a Council stormwater system or disposed of on-site in a manner that does not create erosion, adversely affect the operation or performance of an on-site sewage management system or cause a nuisance on, or to occupiers of, adjoining or adjacent properties.

Swimming pools

- (1) No construction access is permitted other than at the vehicle entry points shown on the approved plans. All loading, unloading and storage of materials for works is to take place within the site.
- (2) Removal or disturbance of vegetation and top soil must be confined to within 3 metres of the construction work. Disturbance must not occur outside this area.
- (3) Swimming pool fences must be constructed around the pool in accordance with the *Swimming Pool Act 1992* and AS 1926, *Swimming pool safety*.

A resuscitation chart must be displayed in a prominent position within the pool area.

Note—

The Royal Life Saving Society Australia has resuscitation charts available. The chart must be made of durable plastic suitable for external display.

(4)

- (a) The swimming pool shall not be filled until such time as the childproof fence and gates have been erected and approved by the Council.
- (b) Childproof fencing and gates shall be a minimum of 1.2 metres in height and shall be constructed prior to filling pool. Such fencing and gates shall comply with AS 1926, *Swimming pool safety*.
- (c) All windows facing into the pool enclosure which are below 1.2 metres from floor level shall be fitted with security screens in compliance with AS 2818—1993, *Guide to swimming pool safety*.

Note—

The Council has available resuscitation charts, suitable for display near your swimming pool. The charts are made of durable plastic suitable for external display, near the pool.

- (5) Filter pump noise—the filter pump is to be located such that noise from its operations does not cause a nuisance to adjoining property owners. If necessary, an acoustic enclosure must be fitted to the pump such that the noise from the swimming pool pump and filtration equipment when measured at the boundary of the adjoining premises shall not exceed the background level (LA 90) by more than 5 dB(A) and the noise from the pool pump shall not be audible within a room of any other residence during the hours of 8 pm to 7 am Monday to Friday or 8 pm to 8 am Saturdays, Sundays and public holidays.
- (6) The pool concourse is to be set at least 150 millimetres above the finished ground level such that surface water does not enter the pool.
- (7) Backwash must be discharged to the Council's reticulated sewer system in accordance with AS/NZS 3500.2.2:1996, *Part 2.2: National Plumbing and Drainage—Sanitary plumbing and drainage—Acceptable solutions*, Section 10.9 and Figure 10.2, where sewer is available or comply with the principles of AS/NZS 1547:2000, *On-site domestic wastewater management*.
- (8) The pool water shall be treated and maintained as required by NSW Health in their booklet *Water Quality for Swimming Pools and Spas*.
- (9) Any soil or other material excavated for the installation of the pool must be disposed of in a manner approved by the Council.

Note—

The swimming pool must not be used until an occupation certificate has been issued.

Schedule 5 Development not restricted or prohibited by this plan

(Clause 9)

- 1 The carrying out by persons carrying on railway undertakings on land comprised in their undertakings of:
 - (a) any development required in connection with the movement of traffic by rail, including the construction, reconstruction, alteration, maintenance and repair of ways, works and plant, and
 - (b) the erection within the limits of a railway station of buildings for any purpose,but excluding:
 - (c) the construction of new railways, railway stations and bridges over roads, and
 - (d) the erection, reconstruction and alteration of buildings for purposes other than railway undertaking purposes outside the limits of a railway station and the reconstruction or alteration of railway stations or bridges so as materially to affect their design, and
 - (e) the formation or alteration of any means of access to a road, and
 - (f) the erection, reconstruction and alteration of buildings for purposes other than railway purposes where such buildings have direct access to a public place.
- 2 The carrying out by persons carrying on public utility undertakings, being water, sewerage, drainage, electricity or gas undertakings, of any of the following development, being development required for the purpose of their undertakings, that is to say:
 - (a) development of any description at or below the surface of the ground,
 - (b) the installation of any plant inside a building or the installation or erection within the premises of a generating station or substation established before the appointed day of any plant or other structures or erections required in connection with the station or substation,
 - (c) the installation or erection of any plant or other structures or erections by way of addition to or replacement or extension of plant or structures or erections already installed or erected, including the installation in an electrical transmission line of substations, feeder-pillars or transformer housing, but not including the erection of overhead lines for the supply of electricity or pipes above the surface of the ground for the supply of water, or the installation of substations, feeder-pillars or transformer housings of stone, concrete or brickworks,
 - (d) the provision of overhead service lines in pursuance of any statutory power to provide a supply of electricity,
 - (e) the erection of service reservoirs on land acquired or in process of being acquired for that purpose before the appointed day, provided reasonable notice of the proposed erection is given to the Council,
 - (f) any other development except:
 - (i) the erection of buildings, the installation or erection of plant or other structures or erections and the reconstruction or alteration, so as materially to affect their design or external

appearance, of buildings, or

(ii) the formation or alteration of any means of access to a road.

- 3** The carrying out by persons carrying on public utility undertakings, being water transport undertakings, on land comprised in their undertakings, of any development required in connection with the movement of traffic by water, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, wharves, works and plant required for that purpose, except:
- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
 - (b) the formation or alteration of any means of access to a road.
- 4** The carrying out by persons carrying on public utility undertakings, being wharf or river undertakings, on land comprised in their undertakings, of any development required for the purposes of shipping or in connection with the embarking, loading, discharging or transport of passengers, livestock or goods at a wharf or the movement of traffic by a railway forming part of the undertaking, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, works and plant for those purposes, except:
- (a) the construction of bridges, the erection of any other buildings, and the reconstruction or alteration of bridges or of buildings so as materially to affect their design or external appearance, or
 - (b) the formation or alteration of any means of access to a road.
- 5** The carrying out by persons carrying on public utility undertakings, being air transport undertakings, on land comprised in their undertakings within the boundaries of any aerodrome, of any development required in connection with the movement of traffic by air, including the construction, reconstruction, alterations, maintenance and repair of ways, buildings, wharves, works and plant required for that purpose, except:
- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
 - (b) the formation or alteration of any means of access to a road.
- 6** The carrying out by persons carrying on public utility undertakings, being road transport undertakings, on land comprised in their undertakings, of any development required in connection with the movement of traffic by road, including the construction, reconstruction, alteration, maintenance and repair of buildings, works and plant required for that purpose, except:
- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
 - (b) the formation or alteration of any means of access to a road.
- 7** The carrying out by the owner or lessee of a mine (other than a mineral sands mine), on the mine, of any development required for the purposes of a mine, except:

- (a) the erection of buildings (not being plant or other structures or erections required for the mining, working, treatment or disposal of minerals) and the reconstruction, alteration or extension of buildings, so as materially to affect their design or external appearance, or
 - (b) the formation or alteration of any means of access to a road.
- 8** The carrying out of any development required in connection with the construction, reconstruction, improvement, maintenance or repair of any road, except the realignment or relocation of such road.
- 9** The carrying out of any forestry work by the Forestry Commission, a School Forest Trust empowered under relevant Acts to undertake afforestation, roading, protection, cutting and marketing of timber, and other forestry purposes under such Acts or on any Crown land temporarily reserved from sale as a timber reserve.
- 10** The carrying out by a rural lands protection board of any development required for the improvement and maintenance of travelling stock and water reserves, except:
- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or purposes,
 - (b) any development designed to change the use or purpose of any such reserve.
- 11** The carrying out or causing to be carried out by a council engaged in flood mitigation works or by the Department of Land and Water Conservation of any work for the purposes of soil conservation, irrigation, afforestation, reforestation, flood mitigation, water conservation or river improvement in pursuance of the provisions of the *Water Act 1912*, the *Farm Water Supplies Act 1946*, the *Rivers and Foreshores Improvement Act 1948* or the *Water Management Act 2000*, except:
- (a) the erection of buildings, the installation or erection of plant or other structures or erections and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or

(b) the formation or alteration of any means of access to a road.

12 In this Schedule, ***appointed day*** means the day on which this plan commences.

Schedule 6 Development for certain additional purposes

(Clause 12)

- 1** Lots 1-14 DP 241258—development for the purpose of a dwelling-house on each allotment.
- 2** Lots 34-40 DP 242505—development for the purpose of a dwelling-house on each allotment.
- 3** Lots 8, 9 DP 603201—development for the purpose of a dwelling-house on each allotment.
- 4** Lot 1 DP 740324—development for the purpose of a dwelling-house.
- 5** Lots 43-45 DP 243169—development for the purpose of a dwelling-house on each allotment.
- 6** Lots 1, 4-20 DP 238373—development for the purpose of a dwelling-house on each allotment.
- 7** Lots 20, 21 DP 564999—development for the purpose of a dwelling-house on each allotment.
- 8** Lots 6-13 DP 241696—development for the purpose of a dwelling-house on each allotment.
- 9** Lots 30-35 DP 243991—development for the purpose of a dwelling-house on each allotment.
- 10** Lots 1-7, 10-39 DP 262072—development for the purpose of a dwelling-house on each allotment.
- 11** Lots 1, 2 DP 794420—development for the purpose of a dwelling-house on each allotment.
- 12** Lots 172-184 DP 242788—development for the purpose of a dwelling-house on each allotment.
- 13** Lots 4-24 DP 243295—development for the purpose of a dwelling-house on each allotment.
- 14** Lots 11-13 DP 606689—development for the purpose of a dwelling-house on each allotment.
- 15** Lots 6-16 DP 234703—development for the purpose of a dwelling-house on each allotment.
- 16** Lots 1-17 DP 8131—development for the purpose of a dwelling-house on each allotment.
- 17** Lots 1-7, 9-15 DP 217512—development for the purpose of a dwelling-house on each allotment.
- 18** Lot 2 DP 800107—development for the purpose of a dwelling-house.
- 19** Lots 1-3 DP 515981—development for the purpose of a dwelling-house on each allotment.
- 20** Lots 1-7 DP 223495—development for the purpose of a dwelling-house on each allotment.
- 21** Part of Lot 103 DP 603706, having frontage to Trunk Road 76 at Thora—development for the purpose of a junk yard.
- 22** Lot 2 DP 586539, Newry Island, Urunga—development for the purpose of an oyster depuration

plant.

- 23** Lot 1 DP 201668, Pacific Highway—development for the purpose of a liquid fuel depot, subject to the consent authority being satisfied that the requirements of the Roads and Traffic Authority and the Department of Mineral Resources have been or will be met.
- 24** Land within Zone No 6 (a) adjacent to the western boundary of Lot 110 DP 755553 (Lot 1 DP 242682)—development for the purpose of a camping area, boat landing and storage facilities and commercial boatsheds.
- 25** Part Portion 134, Parish of Never Never, being the residue after the excision of Lot 6 DP 230589—development for the purpose of an arts and crafts shop.
- 26** Lot 239 DP 755552, Village of Urunga—development for the purpose of a boatshed and restaurant facilities and a caretaker’s residence.
- 27** Lots 144 and 421, DP 755557, South Arm Road, Urunga—development for the purpose of a dwelling-house, following the consolidation of the two allotments.
- 28** Lots 10, 11 Section B DP 8086 and Lots D and E DP 392914, 39 Hammond Street, North Bellingen—development for the purpose of the following land uses:
- (a) repairing and servicing of small machinery and electrical equipment, such as pumps, lawn mowers, compressors, washing machines, refrigerators (other than repairing and servicing which involves reconstruction or manufacturing, or panel beating or spray painting of all or part of that machinery or equipment), and
 - (b) the hire of motor vehicles, small machinery or electrical equipment, and
 - (c) the display for sale of not more than 2 motor vehicles at any one time, and
 - (d) the sale of small machinery or electrical equipment.
- 29** Lot 1 DP 624708, Mahers Road—subdivision to create 3 allotments and development for the purpose of a dwelling-house on each of the resulting allotments.
- 30** Lot 30 DP 806173, Wollumbin Drive, Urunga—development for the purpose of a single dwelling-house, or tourist facilities accommodating up to 10 people and connected to an on-site waste disposal system.
- 31** Part Lot 6 DP 810257, Peakes Road, Dorrigo—development for the purpose of tourist facilities comprising refreshment room, craft centre, cabin accommodation, rest room facilities, manager’s residence and associated carparking, but only if:
- (a) a management plan has been prepared and adopted for the Dangar Falls Reserve in accordance with the [Crown Lands Act 1989](#) and having regard to the *NSW North Coast Crown Reserves Management Strategy* published in 1994 by the then NSW Crown Lands Service, and
 - (b) arrangements satisfactory to the Council have been made for the provision for water supply and drainage and the disposal of stormwater and sewage from the land, and
 - (c) the design of the development is consistent with the *North Coast Design Guidelines* published

in 1989 by the then Department of Planning, and

- (d) the development commences within a period of 5 years from the date of publication of the *Bellingen Local Environmental Plan 1990 (Amendment No 13)* in the Government Gazette (that date being 3 January 1997).

- 32** Lot 2 DP 792596, Pacific Highway, Urunga—subdivision to create 2 allotments and development for the purpose of a dwelling that need not be connected to the Urunga reticulated sewerage system on each of the resulting allotments.
- 33** Part of Lot 8 DP 854162, Waterfall Way, Bellingen, as shown on the map marked "*Bellingen Local Environmental Plan 1990 (Amendment No 14)*"—subdivision to create 2 allotments on the southern side of Waterfall Way and development for the purpose of a dwelling on each of the resulting allotments, but only if the consent authority is satisfied that:
 - (a) re-forestation has been undertaken on all slopes in excess of 25%, and
 - (b) adequate financial security is in place to ensure proper establishment and maintenance of that re-forestation at no cost to the Council, and
 - (c) the development of buildings on the land will not substantially detract from the visual amenity of the area, particularly in regard to potential intrusion into the skyline.
- 34** Lot 13 and part of Lots 11, 12 and 14 DP 808430, part of Portion 44, Parish of North Bellingen and part of Portion 45, Parish of North Bellingen, Gleniffer Road, Bellingen, as shown on the map marked "*Bellingen Local Environmental Plan 1990 (Amendment No 14)*"—subdivision of land within Zone No 1 (c3) and development for the purpose of a dwelling on each of the resulting allotments, but only if the consent authority is satisfied that:
 - (a) re-forestation has been undertaken on all slopes in excess of 25%, and
 - (b) adequate financial security is in place to ensure proper establishment and maintenance of that re-forestation at no cost to the Council, and
 - (c) the development of buildings on the land will not substantially detract from the visual amenity of the area, particularly in regard to potential intrusion into the skyline.
- 35** Lot 59 DP 816169, Old Brierfield Road, Bellingen—subdivision to create 2 allotments and development for the purpose of a dwelling on each of the resulting allotments.
- 36** Lot 12 DP 864284, Perrys Road, Repton—subdivision in two stages:
 - (a) firstly to create 2 allotments, with 1 lot having an area not less than 4.5 hectares, and
 - (b) secondly to create a 5 lot neighbourhood scheme on the larger lot and the erection of a dwelling on each of the resulting allotments.
- 37** Part of Lot 330 DP 852545, Mount Street, Fernmount, as shown on the map marked "*Bellingen Local Environmental Plan 1990 (Amendment No 14)*"—subdivision to create 2 allotments and development for the purpose of a dwelling on each of the resulting allotments.
- 38** Lot 26 DP 814203, McDougall Place, Fernmount—subdivision to create 2 allotments and

development for the purpose of a dwelling on each of the resulting allotments.

- 39** Lot 32 DP 814203, McDougall Place, Fernmount—subdivision to create 2 allotments and development for the purpose of a dwelling on each of the resulting allotments.
- 40** Lots 1 and 3 DP 843898, Waterfall Way, Fernmount—subdivision to create 2 allotments and development for the purpose of a dwelling on each of the resulting allotments.
- 41** Part of Lot 4 DP 723071, North Bank Road, Bellingen and part of Lot 41 DP 814175, North Bank Road, Bellingen, as shown on the map marked “*Bellingen Local Environmental Plan 1990 (Amendment No 14)*”—subdivision to create a total of 5 allotments and development for the purpose of a dwelling on each of the resulting allotments.
- 42** Part of Lot 30 DP 806173, Wollumbin Drive, Urunga, as shown on the map marked “*Bellingen Local Environmental Plan 1990 (Amendment No 14)*”—subdivision to create 2 allotments with one lot having an area of not less than 1 hectare and development for the purpose of a dwelling on each of the resulting allotments.

Schedule 7 General principles for rural development

(Clause 26)

- 1** Development should be generally compatible with the suitability and capability of the land on which it is based.
- 2** Development should not materially reduce the agricultural production potential of the land on which it is to be located or of adjoining land.
- 3** Development should not take place on land that is likely to be affected by flooding, soil erosion, geological or mining hazards, landslip or instability, unless it is sited and designed to minimise any risk.
- 4** Development should not take place on land containing items of environmental, archaeological or scientific importance where those items are likely to be adversely affected by the development.
- 5** Development should not take place on land of mineral or extractive resource potential or in areas where such development would compromise the potential for recovering mineral or extractive resources (including forestry).
- 6** Development should be located and designed so as not to detract from the rural or scenic character of the locality.
- 7** The design of subdivisions and the location of building sites should have regard to:
 - (a) the retention and possible extension of native vegetation areas and natural habitats, and
 - (b) the natural topography and the need to minimise visual intrusiveness by following natural contours and minimising excavation and fill, and
 - (c) views of the land from nearby roads and public places and the need to minimise the intrusiveness of development, and

- (d) the need to prevent soil erosion and sedimentation caused by clearing land and uncontrolled flows of water across land, and
 - (e) the need for flood-free sites for buildings and for stock during floods, and
 - (f) the need to locate allotments and building sites so as to minimise the risk of damage by bush fires, and
 - (g) the need for works, including perimeter roads or fire trails, to reduce bush fire hazards, and
 - (h) the need to maintain the rural character of the area, including the prevention of buildings intruding into the skyline when viewed from roads or other public places, and
 - (i) the siting of buildings, having regard to the location of adjoining development and the need to prevent an overconcentration of development inappropriate for the locality.
- 8** Development should not take place unless consideration has been given to the nature of bush fire hazard in the area and, where the land is in an area of bush fire risk, an investigation is undertaken into appropriate means of reducing hazard, including:
- (a) the location of building sites on each allotment of a proposed subdivision in the area of least risk, and
 - (b) the need for and impact of a perimeter road or fire trail around any proposed subdivision, and
 - (c) the provision of a water supply adequate for fire fighting services, and
 - (d) the means of access for fire fighting vehicles, and
 - (e) the need for asset protection zones and the impact of this on the allotment layout of any proposed subdivision, and
 - (f) the need for fireproof building materials, and
 - (g) the availability of fire fighting equipment, and
 - (h) the availability of appropriate means to ensure that fire protection measures, including asset protection zones and hazard reduction, are maintained.
- 9** The development can be adequately and economically served by:
- (a) facilities on the land for the disposal of sewage and domestic wastes and for the supply of water for domestic, fire fighting and gardening purposes, and
 - (b) electricity, telephone, postal and garbage disposal services, and
 - (c) adequate all-weather flood-free access to an urban service centre.
- 10** Development should not take place where such development creates a demand for an unreasonable or uneconomic provision or extension of public services whether by the Council or by any other public authority.
- 11** Development should not take place where it is likely to lead to an increase in run-off into local

streams or increased pollution levels in local streams or subterranean water resources.

12 Development should not prejudice the intended use, function and management of travelling stock reserves, particularly by increasing vehicular access to such a reserve.

13 Development should not create or worsen a condition of ribbon development on any main road or arterial road, in relation to visual impact, traffic hazards associated with vehicular access points, or potential disruption to traffic flow on the road.

Schedule 8 Classification and reclassification of public land

(Clause 58)

Note—

At the commencement of this plan, there were no entries in this Schedule.

Part 1 Land classified, or reclassified, as operational land—no interests changed

Part 2 Land classified, or reclassified, as operational land—interests changed

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged

Part 3 Land classified, or reclassified, as community land

Column 1	Column 2
Locality	Description

Schedule 9 Heritage items

(Dictionary)

1 Osprey nest sites—dead trees and land within 100 metres of them on:

Lot 22 DP 703013 (GR 958 302 Bellingen 1:25 000)

Portion 118 DP 755552 (GR 013 226 Missabotti 1:25 000)

Portion 225 DP 755557 (GR 015 287 Raleigh 1:25 000)

Portion 32 DP 755552 (GR 984 243 Missabotti 1:25 000)

Portion 113 DP 755553 (GR 038 303 Raleigh 1:25 000)

- 2 Lot 3 DP 800990—Hotel Dorrigo, corner Hickory and Cudgery Streets, Dorrigo
- 3 Lot 2 DP 537756, 647 Waterfall Way, Fernmount—former Fernmount Police Station (comprising the brick residence and attached cell block)

Schedule 10 Main roads

(Dictionary)

State Highway No 10 (Pacific Highway)

State Road No 76 (Waterfall Way)

Main Road No 118 (Bowraville Road)

Main Road No 119 (Tyringham Road)

Main Road No 120 (Megan Road)

Dictionary

(Clause 5 (1))

acid sulfate soil means actual or potential acid sulfate soil as defined in the *Acid Sulfate Soils Assessment Guidelines*.

Acid Sulfate Soils Assessment Guidelines means the *Acid Sulfate Soils Assessment Guidelines* as published by the NSW Acid Sulfate Soils Management Advisory Committee and adopted for the time being by the Director-General.

adjoining an area of land, means abutting the area or separated from the area only by a public reserve, a road, a river, a watercourse, tidal or non-tidal water, or another like feature.

advertising structure means a structure used or to be used principally for the display of a sign or an advertisement.

agriculture means the use of land for the purpose of:

(a) the keeping or breeding of livestock, bees, poultry or other birds, or

(b) the cultivation of crops, including cereals, fruit, nuts, vegetables, flowers and ornamental plants,

and includes the production of bushfoods where the plants have been established for this purpose (and are not naturally established native vegetation), but does not include use of an animal establishment or animal boarding establishment.

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

allotment means a lot in a current plan within the meaning of the [Conveyancing Act 1919](#).

alter, 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 detail, fabric, finish or appearance of the outside of the building or work, not including changes that consist of maintenance of the existing detail, fabric, finish or appearance of the outside of the building or work.

animal boarding establishment means a building or place used for the commercial boarding of animals.

animal establishment means a building or place used intensively for the purposes of animal husbandry or the training or keeping of animals, birds, fish, crustaceans, insects or the like, generally requiring the importation of feed other than feed produced on the land on which the establishment is conducted.

asset protection zone has the same meaning as in the document titled *Planning for Bushfire Protection* published in December 2001 by the NSW Rural Fire Service in collaboration with Planning NSW.

attached dual occupancy means a building containing 2 dwellings.

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

beach amenities means toilets, showers, change rooms and associated buildings.

bed and breakfast establishment means a dwelling in which temporary overnight accommodation is provided for guests, and

- (a) in which at least breakfast is offered to guests, and
- (b) which does not contain facilities in rooms for the preparation of meals by guests, and
- (c) that is not used for the permanent or long-term accommodation of any persons other than those, and the family of those, who operate and manage the facility and who would normally reside on the land.

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

boundary adjustment means a subdivision that is to adjust the boundary between allotments and that does not divide the land into a greater number of allotments than it was divided into immediately before the subdivision.

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

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

bush fire hazard reduction work means the controlled application of appropriate fire regimes or other means (chemical, mechanical, manual or otherwise) for the reduction or modification of available fuels within a predetermined area to mitigate against the spread of a bush fire in accordance with the

Bellingen Bush Fire Risk Management Plan approved under section 58 of the [Rural Fires Act 1997](#).

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

car repair station means a building or place used for the purpose of carrying out repairs to motor vehicles or agricultural machinery not being body building or panel beating which involves dismantling, or spray painting other than of a touching-up character.

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

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

church means any place of public worship, whether in the Christian tradition or otherwise.

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

cluster housing means the erection of more than two dwellings having communal open space and other shared facilities on a single allotment of land.

commercial premises means a building or place used as an office or for other business or commercial purposes, but does not include a building or place elsewhere specifically defined in this Dictionary or a building or place used for a land use elsewhere specifically defined in this Dictionary.

community centre means a building or place used to provide facilities comprising or relating to any one or more of the following:

- (a) a public library,
- (b) public health services,
- (c) rest rooms,
- (d) meeting rooms,
- (e) indoor recreation,
- (f) child minding facilities,
- (g) any other like building or activity.

community facilities means a building or place owned or controlled by a public authority or community organisation which may provide for the physical, social, cultural or intellectual development or welfare of the local community, but does not include a building or place elsewhere

defined in this Dictionary.

complying development is identified in clause 8.

conservation area means an area of heritage significance shown hatched on the map or identified as such in the [North Coast Regional Environmental Plan](#).

Council means the Bellingen Council.

dam means an excavation in which water is stored by the use of earthen walls or walls made of other materials.

damage to vegetation means any one or more of the following:

- (a) cutting down, felling, thinning, logging or removing vegetation,
- (b) killing, destroying, poisoning, ringbarking, uprooting or burning vegetation,
- (c) severing, topping or lopping branches, limbs, stems or trunks of vegetation,
- (d) wilful destruction of vegetation,
- (e) damaging or injuring vegetation in any other way.

dead tree means a tree that is no longer capable of performing any of the following processes or is exhibiting any of the following symptoms:

Processes

photosynthesis via its foliage crown (as indicated by the presence of moist, green or other coloured leaves),

osmosis (the ability of the root system to take up water),

turgidity (the ability of the plant to hold moisture in its cells),

growth as a response to physical stress.

Symptoms

permanent leaf loss in both deciduous and evergreen plants,

permanent wilting (the loss of turgidity which is marked by drying out of stems, leaves and roots),

shedding of the epidermis (bark dries out and peels off to the beginning of the sapwood).

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

development has the same meaning as in the Act.

Dorrigo plateau means land to which this plan applies situated generally to the north and northwest of the New England, Bellinger River and Dorrigo National Parks.

dripzone means that area below a plant that is contained within a line projected onto the ground

directly below the outermost extent of the plant's aboveground parts.

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

dwelling-house means a building containing 1, but not more than 1, dwelling.

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

environmental weed means a plant listed in the Council's policy, adopted from time to time, as an environmental weed.

exempt development is identified in clause 7.

exhibition home means a dwelling constructed for display purposes to demonstrate aspects of housing form, design, construction, materials and the like, and which may or may not be used for ancillary purposes such as a site office for house sales purposes.

expanded dwelling means a single dwelling comprised of two or more buildings erected in close proximity to each other.

extractive industry means:

- (a) the winning of extractive material, or
- (b) an undertaking, not being a mine, which depends for its operations on the winning of extractive material from the land upon which it is carried on, and includes any washing, crushing, grinding, milling or separating into different sizes of that extractive material on that land.

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

flood liable land means land that is at or below the 1% Annual Exceedance Probability (AEP) flood level.

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

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

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

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

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

- (a) a podiatrist registered under the [Podiatrists Act 1989](#), and

- (b) a chiropractor or osteopath or chiropractor and osteopath registered under the *Chiropractors Act 2001* or *Osteopaths Act 2001*, and
- (c) a physiotherapist registered under the *Physiotherapists Act 2001*, and
- (d) an optometrist registered under the *Optometrists Act 1930* or *Optometrists Act 2002*.

health consulting rooms means a room or a number of rooms forming either the whole of or part of, attached to or within the curtilage of a dwelling-house or expanded dwelling and used by not more than three health practitioners (masseurs, naturopaths, acupuncturists, kinesiologists and the like) who practise therein and, if more than one, practise in partnership, and who employ not more than three employees in connection with that practice.

height means the greatest distance measured vertically from any point on the article to be measured to the natural ground level immediately below that point.

helipad means an area or place not open to public use which is set apart for the taking off and landing of helicopters.

heliport means an area or place open to public use which is set apart for use by helicopters and includes terminal buildings and facilities for the parking, servicing and repair of helicopters.

heritage item means a building, work, relic, tree or place that is situated within a conservation area, listed in Schedule 9 or identified as such in the *North Coast Regional Environmental Plan*.

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

high bush fire hazard area means an area identified in the *Bellingen Bush Fire Risk Management Plan* approved under section 58 of the *Rural Fires Act 1997* as being within a High relative hazard class.

holding means:

- (a) an allotment not held in the same ownership as any adjoining or adjacent allotment, or
- (b) the aggregation of all adjoining or adjacent allotments held in the same ownership (including land held under a Crown lease).

home industry means an industry carried on in a building under the following circumstances:

- (a) the building does not occupy a floor space exceeding 50 square metres and is erected within the curtilage of the dwelling occupied by the person carrying on the industry or on adjoining land owned by that person, and
- (b) the industry does not:
 - (i) interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, or
 - (ii) involve exposure to view from any adjacent premises or from any public place of any unsightly matter, or

- (iii) require the provision of any essential service main of a greater capacity than that available in the locality.

home occupation means an occupation carried on in a dwelling or within the curtilage of a dwelling by the permanent residents of the dwelling which does not involve:

- (a) the employment of more than 2 persons other than those residents, or
- (b) interference with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, or
- (c) the display of goods, whether in a window or otherwise, or
- (d) the exhibition of any notice, advertisement or sign (other than a notice or sign exhibited on the dwelling or the land on which the dwelling is situated to indicate the name and occupation of the resident), or
- (e) the sale of items (whether goods or materials) or the exposure or offer for sale of items, by retail, or
- (f) a bed and breakfast establishment or a tourist facility.

hospital means a building or place (other than an institution) used for the purpose of providing professional health care services (such as preventative or convalescent care, diagnosis, medical or surgical treatment, care for people with developmental disabilities, psychiatric care or counselling and services provided by health care professionals) to people admitted as in-patients (whether or not out-patients are also cared for or treated there), and includes:

- (a) ancillary facilities for the accommodation of nurses or other health care workers, ancillary shops or refreshment rooms and ancillary accommodation for persons receiving health care or for their visitors, and
- (b) facilities situated in the building or at the place and used for educational or research purposes, whether or not they are used only by hospital staff or health care workers, and whether or not any such use is a commercial use.

hotel means premises, the lawful operation of which requires a hotelier's licence under the [Liquor Act 1982](#).

industry means any manufacturing process in or incidental to the making, assembling, altering, repairing, renovating, preparing, ornamenting, finishing, cleaning, washing, breaking up or adapting of any goods or any article or any part of an article for trade, sale or gain or as an ancillary activity to any business, but does not include an extractive industry.

institution means a penal or reformatory establishment.

junk yard means land used for the collection, storage, abandonment or sale of scrap metals, waste paper, rags, bottles or other scrap materials or goods used for the collecting, dismantling, storage, salvaging or abandonment of automobiles or other vehicles or machinery or for the sale of their parts.

light industry means an industry, not being an offensive or hazardous industry, in which the

processes carried on, the transportation involved or the machinery or materials used do not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise.

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

main road means a road listed in Schedule 10.

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

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

mine means any place, open cut, shaft, tunnel, pit, drive, level or other excavation, drift, gutter, lead, vein, lode or reef on which, in which or by which any operation is carried on for or in connection with the purpose of obtaining any metal or mineral by any mode or method and any place on which any product of the mine is stacked, stored, crushed or otherwise treated, but does not include a quarry.

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

motel means a building or buildings (other than a hotel, boarding-house or residential flat building) substantially used for the overnight accommodation of travellers and the vehicles used by them whether or not the building or buildings are also used in the provision of meals to those travellers or the general public.

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

natural tourism area means an area which:

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

offensive noise means noise:

- (a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
 - (i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or
 - (ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted or

(b) that is of a level, nature, character or quality prescribed by the regulations under the *Protection of the Environment Operations Act 1997* or that is made at a time, or in other circumstances, prescribed by those regulations.

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

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

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

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

principal development area means the area including and immediately around a dwelling and which is used for garages, carports, sheds, drying yards, domestic sewage and waste water disposal areas, swimming pools, the primary outdoor area adjacent to that dwelling, lawns, gardens and the like.

private open space means an area provided to a dwelling that is not subject to casual overlooking or surveillance by any person in any adjoining property, whether public or private, when going about their normal activities.

produce store means a shop selling goods or equipment used primarily for the purposes of agricultural production.

professional consulting rooms means a room or a number of rooms forming either the whole of or part of, attached to or within the curtilage of a dwelling-house or expanded dwelling and used by not more than three legally qualified medical practitioners or by not more than three dentists within the meaning of the *Dental Practice Act 2001*, or by not more than three health care professionals, who practise therein the profession of medicine, dentistry or health care respectively, and if more than one practise in partnership, and who employ not more than three employees in connection with that practice.

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

public place means:

- (a) a public reserve, public bathing reserve, public baths or public swimming pool, or
- (b) a public road, public bridge, public wharf or public road-ferry, or
- (c) a Crown reserve comprising land reserved for future public requirements, or
- (d) public land or Crown land that is not:

- (i) a Crown reserve (other than a Crown reserve that is a public place because of paragraph (a), (b) or (c)), or
- (ii) a common, or
- (iii) land subject to the *Trustees of Schools of Arts Enabling Act 1902*, or
- (iv) land that has been sold or leased or lawfully contracted to be sold or leased.

public utility undertaking means any of the following undertakings carried on or permitted or suffered to be carried on by or by authority of any Government Department or under the authority of or in pursuance of any Commonwealth or State Act:

- (a) railway, road transport, water transport, air transport, wharf or river undertakings,
- (b) undertakings for the supply of water, hydraulic power, gas or electricity (including transmission towers and the like) or the provision of sewerage or drainage services,

and a reference to a person carrying on a public utility undertaking shall be construed as including a reference to a council, county council, Government Department, corporation, firm or authority carrying on the undertaking.

rear yard means:

- (a) in Zones Nos 2 (a) and No 2 (b), the area behind the front alignment of the dwelling (relative to the road), and
- (b) in zones other than Zones Nos 2 (a) and 2 (b), any area at least 20 metres from the road boundary and capable of being screened from view from the road.

recreation area means:

- (a) a children's playground, or
- (b) an area used for sporting activities or sporting facilities, or
- (c) an area used by the Council or a public authority 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.

recreation establishment means health farms, religious retreat houses, rest homes, youth camps and the like, but does not include a building or place elsewhere specifically defined in this Dictionary or a building or place used or intended for use for a land use elsewhere specifically defined in this Dictionary.

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

refreshment room means a restaurant, café, tea room, eating house or the like.

relic means any deposit, object or material evidence relating to the settlement (including aboriginal habitation) of the Bellingen local government area which is 50 or more years old.

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.

residential flat building means a building containing 3 or more dwellings.

residue land means land that is, or has boundaries co-extensive with the boundaries of, a 1969 existing holding, exclusive of:

- (a) any allotment created in accordance with the provisions of *Interim Development Order No 1—Shire of Bellingen* or a consent granted pursuant to *State Environmental Planning Policy No 1—Development Standards* because any of the requirements made by those provisions was unreasonable or unnecessary and on which a dwelling-house was permissible under the planning instrument that applied when the allotment was created or that was a special purpose allotment, and
- (b) any allotment created in accordance with the provisions of clause 9, 13, 14, 15 or 15A of *Bellingen Local Environmental Plan 1990* or a consent granted pursuant to *State Environmental Planning Policy No 1—Development Standards* because any of the requirements made by those provisions was unreasonable or unnecessary, and
- (c) any land that is subject to a development consent for a dwelling-house or expanded dwelling granted pursuant to the provisions of *Interim Development Order No 1—Shire of Bellingen* or clause 17 (3) (a) of *Bellingen Local Environmental Plan 1990*, or a consent granted pursuant to *State Environmental Planning Policy No 1—Development Standards* because any of the requirements made by those provisions was unreasonable or unnecessary, but only if that consent has not lapsed, and
- (d) any allotment created for a public reserve or other public purpose, and
- (e) any land that is a State forest within the meaning of the *Forestry Act 1916*, and
- (f) any land that is reserved or dedicated under the *National Parks and Wildlife Act 1974*, and
- (g) any land that is reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna or geological formations or for environmental protection purposes.

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

roads authority has the same meaning as in section 7 of the *Roads Act 1993*.

roadside stall means a building or place not exceeding 20 square metres in floor space or area,

respectively, where only primary products produced on the property on which the building or place is situated are exposed or offered for sale or sold by retail.

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

RTA means the Roads and Traffic Authority constituted under the [Transport Administration Act 1988](#).

rural enterprise means an industry or other business which, by virtue of its nature, the service provided or the products produced, distributed or sold, is in the opinion of the Council, appropriately located in a rural zone.

rural industry means handling, treating, processing or packing of primary products and includes the servicing in a workshop of plant or equipment used for rural purposes in the locality.

rural workers' accommodation means a building on a holding used to accommodate a person or persons employed for the purpose of undertaking agriculture or operating an animal establishment on the same holding.

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

service station means a building or place used for the fuelling of motor vehicles involving the sale by retail of petrol, oil and other petroleum products whether or not the building or place is also used for any one or more of the following purposes:

- (a) the sale by retail of spare parts and accessories for motor vehicles,
- (b) the retail selling or hiring of small consumer goods,
- (c) washing and greasing of motor vehicles,
- (d) installation of accessories,
- (e) repairing and servicing of motor vehicles involving the use of hand tools (other than repairing and servicing which involves top overhaul of motors, body building, panel beating, spray painting, or suspension, transmission or chassis restoration).

shop means a building or place used for the purpose of selling, exposing or offering for sale by retail, goods, merchandise or materials, but does not include a building or place elsewhere specifically defined in this Dictionary, or a building or place used for a land use elsewhere specifically defined in this Dictionary.

sign means a display of symbols, messages or other devices to identify premises or for conveying information, instructions, directions or the like, whether or not the display involves the erection of a structure or the carrying out of a work.

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

site coverage ratio means the ratio of the floor area of buildings on an allotment to the area of that

allotment.

soft landscaping means areas which are not built upon or paved with pathways, driveways, parking areas, swimming pools or the like.

special purpose allotment has the meaning given by clause 43 (4).

State protected land has the same meaning as in the [Native Vegetation Conservation Act 1997](#).

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

stream means a watercourse having a natural or artificially enhanced channel that is identified on a 1:25,000 topographic map and classified as being perennial, intermittent or seasonal, or ephemeral where:

- (a) **perennial** means a stream that flows continuously—these streams are generally associated with a water table in the localities through which they flow, and
- (b) **intermittent or seasonal** means a stream that flows only in certain times of the year, and
- (c) **ephemeral** means a stream that flows only in direct response to rainfall, and whose channel is mostly above the water table.

the Act means the [Environmental Planning and Assessment Act 1979](#).

the map means the map marked “*Bellingen Local Environmental Plan 2003*”, as amended by the maps (or 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.

timber plantation means an area of land on which the predominant number of trees forming, or expected to form, the canopy are trees that have been planted (whether by sowing seed or otherwise) for the purpose of timber production.

total destination resort means largely self-contained tourist accommodation providing a wide range of facilities and experience in a resort-style arrangement.

tourist facility means an establishment providing for holiday accommodation or recreation and may include a boatshed, boat landing facilities, camping ground, caravan park, holiday cabins, hotel, houseboat, marina, motel, playground, refreshment room, water sport facilities or a club used in conjunction with any such activities, but does not include a total destination resort.

transport terminal means a building or place used as an airline terminal or a road transport terminal, bus station or bus depot, but does not include such a building or place used by not more than 2 trucks or buses.

tree means a perennial plant with one or more self-supporting trunks, which has:

- (a) a height of 3 metres or more, or

(b) a branch and canopy spread of 3 metres or more, or

(c) at least one trunk with a girth of 300 millimetres or more at a height of 1 metre.

units for aged persons means a residential flat building used to house aged persons as defined in the *Aged or Disabled Persons Care Act 1954* of the Commonwealth, erected or to be erected by an eligible organisation as defined in that Act, the Department of Housing or any other Department or instrumentality of the Crown in right of the Commonwealth or the State.

utility installation means a building or work used by a public utility undertaking, but does not include a building designed wholly or principally as administrative or business premises or as a showroom.

vacant land means land on which there are no buildings other than fences.

vegetation means any tree, understorey plant, groundcover or any plant occurring in a wetland or waterbody.

vehicle body repair workshop means a building or place used for the purpose of carrying out repairs to motor vehicles or agricultural machinery involving body building, panel beating or spray painting.

veterinary surgeon's establishment means a building or place used by one or more veterinarians for the care of animals, regardless of whether or not other persons are employed to assist with the business, and which may involve the temporary accommodation of animals for pre- or post-operative care and observation.

visually unobtrusive means compatible with the surrounding environment in terms of material, colour, reflectiveness, texture, profile, size and scale.

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

waterbody means a natural waterbody, whether or not artificially modified, including:

(a) a lake, lagoon or wetland, or

(b) a stream, or

(c) tidal waters including any bay, estuary or inlet.

1969 existing holding means land which is, or has boundaries co-extensive with the boundaries of:

(a) an allotment not held in the same ownership as any adjoining or adjacent allotment, or

(b) the aggregation of all adjoining or adjacent allotments held in the same ownership (including land held under a Crown lease),

as at 12 September 1969.

1990 existing holding means land located on the Dorrigo plateau which is, or has boundaries co-extensive with the boundaries of:

- (a) an allotment not held in the same ownership as any adjoining or adjacent allotment, or
- (b) the aggregation of all adjoining or adjacent allotments held in the same ownership (including land held under a Crown lease),

as at 9 February 1990, but only if the land has a total area of not less than 40 hectares all of which, before that date, formed part of a single 1969 existing holding.

1996 existing holding means land, not located on the Dorrigo plateau, which is, or has boundaries co-extensive with the boundaries of:

- (a) an allotment not held in the same ownership as any adjoining or adjacent allotment, or
- (b) the aggregation of all adjoining or adjacent allotments held in the same ownership (including land held under a Crown lease),

as at 18 June 1996, but only if the land has a total area of not less than 40 hectares all of which, before that date, formed part of a single 1969 existing holding.