

Nambucca Local Environmental Plan 1995

[1995-1]



New South Wales

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Nambucca Local Environmental Plan 1995



New South Wales

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Nambucca Local Environmental Plan 1995



New South Wales

Part 1 General provisions

1 Name of plan

This plan is called *Nambucca Local Environmental Plan 1995*.

2 What are the objectives of this plan?

The objectives of this plan are:

- (a) to update, consolidate and simplify planning controls applying to the area,
- (b) to encourage growth in a planned and co-ordinated manner which will be commercially viable and ecologically sustainable,
- (c) to protect the quality of areas of high landscape and environmental value,
- (d) to protect the major agricultural activities of the area and to facilitate realisation of the agriculture potential of the area,
- (e) to provide opportunities for and to encourage development which will support the area's economic, employment and tourism base,
- (f) to provide land that is appropriate in area, location and quality for living, working and recreational activities,
- (g) to provide a diversity of housing throughout the area,
- (h) to provide opportunities for rural-residential and hobby farm lifestyles on suitable land that is accessible and provided with adequate infrastructure,
- (i) to ensure that development is adequately serviced in an economic, equitable and efficient manner,
- (j) to ensure that development is appropriately located, having regard to environmental constraints, accessibility and existing land use patterns,
- (k) to protect known or prospective areas of valuable deposits of sand, gravel or other

extractive materials,

- (l) to protect land required for future urban purposes from undesirable subdivision and inappropriate development,
- (m) to protect and conserve wildlife habitat refuges and corridors,
- (n) to protect rural and residential amenity,
- (o) to conserve and protect water resources and minimise the risk of pollution,
- (p) to protect soil resources and minimise land degradation,
- (q) to ensure an efficient and safe roads network is maintained with minimum intrusion on business centres, public recreation and residential areas,
- (r) to encourage functional and commercially viable industrial development, which does not pollute or adversely affect the adjoining land or water or the amenity of nearby residents,
- (s) to protect places and buildings of archaeological or heritage significance, including Aboriginal relics and places,
- (t) to provide public recreation areas and a range of recreational facilities to meet the needs of the population, and
- (u) to ensure residents are not put at risk in the event of flooding and bush fires.

3 Where does this plan apply?

The plan applies to all land in the area of Nambucca as shown on the map.

4 How does this plan affect other environmental planning instruments?

- (1) *Nambucca Local Environmental Plan 1986* is repealed.
- (2) *Nambucca Local Environmental Plan No 10* is repealed.

5 How are terms defined in this plan?

- (1) In this plan:

abattoir means a building or place used for the slaughter of animals, whether or not animal by-products are processed, manufactured or distributed and includes a knackerie.

acid sulfate soils means actual or potential acid sulfate soils.

Acid Sulfate Soils Assessment Guidelines means the *Acid Sulfate Soils Assessment Guidelines* as published from time to time by the NSW Acid Sulfate Soils

Management Advisory Committee and adopted by the Director.

Acid Sulfate Soils Planning Map means map marked “*Nambucca Local Environmental Plan 1995 (Amendment No 30)—Acid Sulfate Soils Planning Map*” kept in the office of the Council.

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

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

advertising means the use of a building or place for the display of symbols, messages or other devices for promotional purposes or for conveying information, instructions, directions and the like, whether or not the display involves the erection of a structure or the carrying out of a work.

agricultural machinery showroom means a building or place used for the display and sale of agricultural machinery, whether or not agricultural machinery accessories are also displayed or sold.

agriculture means:

- (a) the cultivation of crops, including cereals, fruit, vegetable or flower crops, or
- (b) the keeping or breeding of livestock, bees or poultry or other birds, or
- (c) the cultivation of plants in a wholesale plant nursery, for commercial purposes.

allotment means any lot, portion or parcel of land which has been lawfully created.

amusement parlour means any premises where more than four amusement devices, consisting of either pinball machines, pool tables, billiard tables, or coin-operated amusement devices or the like, are provided for the entertainment of the public, with the exception of any premises the subject of a hotelier’s licence under the [Liquor Act 1982](#).

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

appointed day means the day on which this plan takes effect.

aquaculture means the cultivation of the resources of the sea or inland waters for the propagation or raising of marine, estuarine or freshwater fish or plants or other organisms.

bed and breakfast establishment means a dwelling-house in which the permanent residents provide rooms for paying guests for temporary overnight accommodation for the short-term traveller, with a common facility for the provision of meals, but does not include premises:

- (a) involving the sale of liquor or goods from the site, or
- (b) that contain facilities in rooms for the preparation of meals by guests, or
- (c) that interfere with the amenity of the neighbourhood due to the generation of vehicular traffic, the attraction of customers or the reduction of car parking in the vicinity of the site, or
- (d) in or on which is exhibited any advertisement relating to the provision of accommodation (other than an advertisement which would fit within an area of one square metre and that is exhibited in or on the premises to indicate that the premises provide bed and breakfast accommodation), or
- (e) in which more than 5 bedrooms are used for paying guests, or
- (f) used as a backpackers' hostel, boarding house, serviced apartments, tourist accommodation or home activity.

brothel means any building or place used habitually for the purpose of prostitution.

bush fire hazard reduction means a reduction or modification (by controlled burning or by mechanical, chemical or manual means) of material that constitutes a bush fire hazard in conformity with a notice issued by the Council or with a development consent or a bush fire management plan, within the meaning of Section 41A of the [Bush Fires Act 1949](#).

camping ground and **caravan park** have the same meanings as under the [Local Government Act 1993](#).

car-park means a building or place used for parking vehicles, and any manoeuvring space and access thereto, whether operated for gain or not.

classified road means a road or work classified under the [Roads Act 1993](#) to be:

- (a) a main road,
- (b) a State Highway,
- (c) a freeway,

- (d) a controlled access road,
- (e) a secondary road,
- (f) a tourist road,
- (g) a tollway, or
- (h) a State work.

cluster housing means development that results in three or more dwellings on a single residential or rural residential allotment of land sharing communal open space and other facilities.

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 specifically defined for the purposes of this plan, or a building or place to the extent that it is subjected to a land use so specifically defined.

communications facility means a building, structure, work, or place used primarily for transmitting or receiving signals for the purposes of communication, and includes radio masts and towers, satellite disks and the like.

community centre means a building or place owned, leased or sub-leased by the Council and 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, or
- (g) any other like place or activity.

Council means Nambucca Shire Council.

dam means a work designed for the containment of water by use of earthen walls or walls of other materials and includes an excavated storage licensed under Part 5 of the [Water Act 1912](#).

dual occupancy means development that results in two dwellings (whether attached or detached) on a single allotment of land.

environmental facility means a structure or work which consists of:

- (a) a nature or scientific study or display facility such as a walking track, board walk, observation deck, bird hide or the like, or
- (b) an environmental management or restoration facility such as a structure or work used for bush regeneration, swamp restoration, erosion and run-off prevention, dunal restoration or the like.

exhibition home means an unoccupied dwelling-house used for display.

existing dams and drains means a dam or drain lawfully constructed before the commencement of *Nambucca Local Environmental Plan 1995 (Amendment No 30)*.

existing parcel of land means:

- (a) except as provided in paragraph (b), the area of an allotment of land as it was at 16 June 1967, or
- (b) where, as at 16 June 1967, a person owned two or more adjoining or adjacent allotments of land, the aggregation of those allotments as they were at that date,

being an allotment, that has, or an aggregation of allotments that have, not been subdivided otherwise than for a purpose referred to in clause 6 of *State Environmental Planning Policy No 4—Development Without Consent*.

extractive industry means:

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

flood free land means land that is unlikely, in the opinion of the Council, to be inundated during a 1 in 100 year flood. However such land may still be liable to flooding during a flood likely to occur less frequently than a 1 in 100 year flood.

flood liable land means land that is likely, in the opinion of the Council, to be inundated during a 1 in 100 year flood and is identified on the maps associated with the following documents deposited in the office of the Council:

- (a) New South Wales Coastal Rivers Floodplain Management Studies: Main Report—The Nambucca Valley (July 1981),
- (b) Macksville Flood Study: Report No PWD 83014 (April 1983),
- (c) Lower Nambucca River: Flood Study—Report No NSW PW94003, ISBN 07310

27396 (February 1994),

(d) Nambucca Shire Environmental Study: Flood Prone Land (May 1983).

floodplain means the portion or portions of the valley of a river, adjacent to the channel of the river, which, in the opinion of the Council, is or are likely to be inundated when the river overflows.

floodway means those areas where, in the opinion of the Council, a significant passage of water flows during floods.

group home means a dwelling that is a permanent group home or a transitional group home as defined in [State Environmental Planning Policy No 9—Group Homes](#).

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

home activity means the use of a dwelling or of a building erected on, or of any land comprising, the allotment on which a dwelling is located, for the purpose of an activity or pursuit, but only if:

- (a) the primary use of the land is residential,
- (b) the activity or pursuit does not and is not likely to:
 - (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, oil, electrical interference or electrical emissions or otherwise,
 - (ii) involve exposure to view from any public place of any matter,
 - (iii) require the provision of any essential service infrastructure of a greater capacity than that available in the locality,
 - (iv) generate traffic out of keeping with the surrounding locality, or
 - (v) occupy a floor area exceeding 50 square metres, and
- (c) the activity or pursuit is undertaken by the permanent residents of the dwelling (and not more than two persons other than those residents), and
- (d) any exposure or offer for sale of items by retail from the premises is restricted to only those items prepared or manufactured on the land and the use of the premises for that purpose will not have a detrimental impact on any commercial area serving the locality.

home-based child care means the provision of care for up to seven children

(including the caregiver's own children), in the dwelling in which the caregiver resides.

hospital means a building or place used as a:

- (a) hospital,
- (b) sanatorium,
- (c) health centre,
- (d) nursing home, or
- (e) home for aged persons, infirm persons, incurable persons or convalescent persons,

whether public or private, and includes a shop or dispensary used in connection with it.

housing for aged or disabled persons means residential accommodation which may take any building form and which is used as housing for aged or disabled persons as defined in *State Environmental Planning Policy No 5—Housing for Aged or Disabled Persons*.

industry means the manufacturing, assembling, altering, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, processing or adapting of any goods or any articles for commercial purposes and includes the storage and servicing of vehicles and the stockpiling of extractive material.

integrated housing development means development that consists of:

- (a) the subdivision of land into 5 or more allotments, and
- (b) the erection of a single dwelling-house on each of the allotments created by that subdivision.

intensive livestock keeping establishment means a building or place in which or on which cattle, sheep, goats, poultry or other livestock are held for the purpose of nurturing by a feeding method other than natural grazing and, without limiting the generality of the foregoing, includes:

- (a) feed lots,
- (b) piggeries,
- (c) poultry farms, and
- (d) similar land uses,

but does not include an animal establishment or the keeping of livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of

the land.

light industry means an industry in which the processes carried on, or the transportation involved or the machinery or material used, do not interfere unreasonably with the amenity of the neighbourhood.

main road means a road declared to be a main road under the [Roads Act 1993](#).

maintenance of existing dams or drains means any works that will disturb or remove soil within existing dams or drains.

manufactured home estate means land on which manufactured homes, as defined under [State Environmental Planning Policy No 36—Manufactured Home Estates](#), are, or are to be, erected.

marina means a pontoon, jetty, pier or the like, used or intended to be used to provide moorings for boats used for pleasure, commerce or recreation, and includes:

- (a) slipways, and
- (b) facilities for the repair, maintenance and fuelling of, or the provision of accessories and parts for, boats or boating enthusiasts, and
- (c) facilities for the storage or provision of food,

but does not include a pontoon, jetty, pier or the like which is not so used.

material recycling depot means land used for the collection, storage, abandonment or sale of scrap metals, waste paper, rags, bottles, or other scrap materials or goods or used for the collecting, dismantling, storing, salvaging or abandoning of automobiles or other vehicles or machinery or for the sale of parts thereof.

medium density housing means three or more dwellings that either are parts of the same building or are situated on the same allotment, where each dwelling has an individual entrance and direct private access to private open space at natural ground level for the exclusive use of the occupants of the dwelling, and includes semi-detached houses, villas and the like.

mining means the winning of any material to which the [Mining Act 1992](#) or the [Petroleum \(Onshore\) Act 1991](#) applies and the storage and primary processing of the material obtained.

motel means premises, not being a hotel, used for the temporary or short-term accommodation of travellers.

multiple occupancy means the erection of three or more dwellings or equivalent living accommodation, so as to permit communal living opportunities on a single allotment of rural land.

natural ground level is the ground surface level prior to any development, including any cutting, filling and grading and, where the existing ground level differs from the natural ground level, the natural ground level is to be as determined by Council after taking into account any information concerning its location.

plant depot means a building or place used for the parking or servicing of movable plant on a property where the movable plant is operated only by the owners or occupiers of the building or place.

plant nursery means a building or place used for both the growing and selling of plants, whether or not ancillary products are sold in the building or place, and includes any such building or place used for both wholesale and retail selling of plants.

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

prime crop and pasture land means land identified as class 1, 2 or 3 in the Agricultural Land Suitability Classification Systems Maps held by the Council, but does not include land which the Director-General of the Department of Agriculture notifies the Council, in writing, is not prime crop and pasture land for the purposes of this plan.

public utility undertaking means any undertaking carried out or carried on by, or under the authority of, any government department or in pursuance of any Commonwealth or State Act, for the purpose of:

- (a) railway, road, water or air transport, or wharf or river undertakings, or
- (b) the provision of sewerage or drainage services, or
- (c) the supply of water, hydraulic power, electricity or gas, or
- (d), (e) (Repealed)
- (f) fire fighting facilities, or
- (g) paramedical facilities, or
- (h) storing and collecting recyclable materials, where that undertaking does not occupy an area of more than 100 square metres,

and a reference to a person carrying on a public utility undertaking includes a reference to a council, county council, government department, corporation, firm or authority carrying on the undertaking.

recreation area means:

- (a) a children's playground,
- (b) an area used for sporting activities or sporting facilities, or
- (c) an area used to provide facilities for passive recreational activities which promote the physical, cultural or intellectual welfare of persons within the community, being facilities provided by:
 - (i) the Council,
 - (ii) the Crown,
 - (iii) a body of persons associated for the purpose of the physical, cultural or intellectual welfare of persons within the community, or
 - (iv) any person entering a licence or lease agreement with the Council or the Crown for the use of land,

and includes a racecourse and showground.

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

residential flat building means a building containing three or more dwellings, and includes dwellings developed in conjunction with business premises, but does not include a dwelling-house, medium density housing or a dwelling resulting from dual or multiple occupancy development.

residential infill development means development (including any works by way of landfill) carried out for residential purposes on a vacant allotment of land zoned residential which adjoins or is adjacent to or is surrounded by land which is also zoned residential and on which there is situated one or more dwelling-houses or other residential buildings.

restricted premises means a building or place used or intended for use as a shop or office or place of assembly:

- (a) in, or on, which category 1 restricted publications or category 2 restricted publications, within the meaning of the [Indecent Articles and Classified Publications Act 1975](#), are exposed, exhibited, sold or otherwise rendered accessible or available to the public, or
- (b) in, or on, which a business to which Section 10 of the [Indecent Articles and Classified Publications Act 1975](#) applies, is conducted.

road means a public thoroughfare used for the passage of humans, vehicles or animals.

roadside stall means a permanent or temporary structure (not exceeding 30 square metres in floor area) used for the selling of retail agricultural produce from an allotment of land on which the produce is produced and where parking connected with the use is on the property.

rural industry means:

- (a) handling, treating, processing, storing or packing of primary products and raw materials, or
- (b) regular servicing or repairing of plant or equipment used for the purpose of agriculture, aquaculture or a rural industry in the locality.

rural shed means a shed or similar building or structure used for agriculture-related purposes, but does not include any other building or structure specifically defined for the purposes of this plan, or any other building or structure to the extent that it is subjected to a land use so specifically defined.

rural tourist facility means an establishment used for short-term, low-key holiday accommodation or for recreational or educational purposes and may consist of a bed and breakfast establishment, boat landing facility, educational establishment, environmental facility, guest house, holiday cabins or units, hostel, horse-riding facility, picnic ground, primitive camping ground, refreshment room or the like.

service station means a building or place used for the fuelling of motor vehicles, involving the sale by retail of petrol, oil or other petroleum products, whether or not the building or place is also used for one or more of the following:

- (a) the hiring of trailers,
- (b) the retail selling or the installing of spare parts and accessories for motor vehicles,
- (c) the washing and greasing of motor vehicles,
- (d) the repairing or servicing of motor vehicles (other than body building, panel beating or spray painting),
- (e) the retail selling or hiring of small consumer goods.

shop means a building or place used for selling items, whether by retail or auction, or for hiring or displaying items for the purpose of selling or hiring them, whether the items are goods or materials.

tavern means premises licensed for the sale of liquor but which do not provide overnight accommodation on a commercial basis.

the map means the series of sheets of the map marked “*Nambucca Local Environmental Plan 1995*”, as amended by the maps (or the specified sheets of maps)

marked as follows:

Nambucca Local Environmental Plan 1995 (Amendment No 2)

Nambucca Local Environmental Plan 1995 (Amendment No 3)

Nambucca Local Environmental Plan 1995 (Amendment No 6)

Nambucca Local Environmental Plan 1995 (Amendment No 9)

Nambucca Local Environmental Plan 1995 (Amendment No 10)

Nambucca Local Environmental Plan 1995 (Amendment No 11)

Nambucca Local Environmental Plan 1995 (Amendment No 19)

Nambucca Local Environmental Plan 1995 (Amendment No 21)

Nambucca Local Environmental Plan 1995 (Amendment No 27)

Nambucca Local Environmental Plan 1995 (Amendment No 38)

Nambucca Local Environmental Plan 1995 (Amendment No 39)

Nambucca Local Environmental Plan 1995 (Amendment No 43)

Nambucca Local Environmental Plan 1995 (Amendment No 45)

tourist accommodation means a building used mainly for accommodation of tourists, visitors and travellers which may have facilities for the convenience of patrons, such as restaurants, convention areas and the like.

tourist facility means an establishment providing for holiday accommodation or recreation which may consist of or include a boatshed, boat landing facilities, camping ground, caravan park, golf course, holiday cabins, hotel, houseboat, marina, motel, playground, refreshment room, tavern, water sport facilities or a club used in conjunction with any such activities, but does not include a resort consisting of self-contained tourist accommodation providing a wide range of facilities in a resort style arrangement.

transport terminal means a building or place used as an airline terminal, a road transport terminal, a bus station or a bus depot, and includes an area situated on a rural property used for the loading of agricultural produce originating from that property onto road transport for bulk haulage by a vehicle.

utility installation means a building or work used for a public utility undertaking.

veterinary establishment means a building or place used for the medical or surgical treatment of animals.

waste disposal depot means a building or place used for the disposal of waste materials, whether domestic, commercial or industrial.

works that may alter the watertable means drainage works, ground bores, wells, ground dewatering, or the like on or adjacent to land containing acid sulfate soils which may lower the groundwater level in the general area.

- (2) In this plan, a reference to a building or place at which a land use is carried out includes a reference to a building or place at which the land use is intended to be carried out.
- (3) In this plan, a reference to a map is a reference to a map deposited in the office of the Council.
- (4) Where appearing on the map in relation to land within Zone No 5 (a), the words "Aboriginal Use" mean for use for residential and ancillary purposes, educational establishments, places of assembly, child care centres, general stores, home activities, places of public worship, public buildings, recreation establishments, recreation facilities and refreshment rooms.

5A What is exempt and complying development?

- (1) Development of minimal environmental impact listed as exempt development in *Nambucca Development Control Plan (DCP) No 10 Guidelines for Exempt and Complying Development* as adopted by the Council on 19 July 2001 is **exempt development**, despite any other provision of this plan.
- (2) Development listed as complying development in *Nambucca Development Control Plan (DCP) No 10 Guidelines for Exempt and Complying Development* as adopted by the Council on 19 July 2001 is **complying development** if:
 - (a) it is local development of a kind that can be carried out with consent on the land on which it is proposed, and
 - (b) it is not an existing use, as defined in section 106 of the Act.
- (3) Development is exempt or complying development only if it complies with the development standards and other requirements applied to the development by *Nambucca Development Control Plan (DCP) No 10 Guidelines for Exempt and Complying Development* as adopted by the Council on 19 July 2001.
- (4) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in *Nambucca Development Control Plan (DCP) No 10 Guidelines for Exempt and Complying Development* adopted by the Council, as in force when the certificate is issued.

6 What model provisions does this plan adopt?

- (1) The *Environmental Planning and Assessment Model Provisions 1980* except for:
 - (a) the definitions of **advertisement, advertising structure, agriculture, arterial road, commercial premises, extractive industry, home industry, hospital, industry, light industry, main road, map, mine, motel, public utility undertaking, residential flat building, roadside stall, rural industry, service station, shop, tourist facilities, transport terminal, units for aged persons** and **utility installation** in clause 4 (1), and
 - (b) clauses 15, 29, 30, 31, 33 and 34,
are adopted for the purposes of this plan.
- (2) For the purposes of this plan, the *Environmental Planning and Assessment Model Provisions 1980* are to be read as if:
 - (a) the word “widening” was omitted from clause 8 of Schedule 1, and
 - (b) clause 2 (f) (i) of Schedule 1 did not include development undertaken by the Council or by a person acting on behalf of the Council.

7 Who is the consent authority for this plan?

The Council is the consent authority for the purposes of this plan.

8 How does this plan affect covenants etc?

- (1) If any agreement, covenant or similar instrument prohibits a land use allowed by this plan, then it does not apply to that use (to the extent necessary to allow that use).
- (2) In accordance with section 28 of the *Environmental Planning and Assessment Act 1979*, the Governor approved of subclause (1) before this plan was made.

9 What subdivision controls apply?

- (1) Land to which this plan applies must not be subdivided except with the consent of the Council.
- (2) Nothing in this plan requires consent of the Council for the subdivision of land for any of the following:
 - (a) widening or opening of a public road,
 - (b) (Repealed)
 - (c) rectifying an encroachment on an allotment,
 - (d) creating a public reserve,

- (e) consolidating allotments,
- (f) excising from an allotment land which is, or is intended to be, used for public purposes, including drainage purposes, bush fire brigade or other rescue service purposes or public conveniences, or
- (g) defining land to be leased for the purpose of agriculture for a term of five or more years.

10 What zones apply in this plan?

The following zones apply as identified on the map:

- 1 (a1) Rural
- 1 (a2) Rural (Prime/Flooding)
- 1 (a3) Rural (Upper Water Catchment)
- 1 (a4) Rural (Lower Water Catchment)
- 1 (d) Rural (Future Urban)
- 1 (f) Rural (Forestry)
- 2 (a) Residential (Low-Medium Density)
- 2 (b) Residential (Medium-High Density)
- 2 (c) Residential (Flood Liable)
- 2 (d) Residential (Tourist)
- 2 (v) Residential (Village)
- 3 (a) General Business
- 4 (a) General Industrial
- 4 (b) Industrial (Business)
- 5 (a) Special Uses
- 5 (b) Special Uses (Railway)
- 6 (a) Public Recreation
- 6 (c) Private Recreation
- 7 (a) Environment Protection (Wetlands)

7 (b) Environment Protection (Vegetation Conservation)

7 (f) Environment Protection (Coastal Lands)

7 (g) Environment Protection (Archaeological)

8 (a) National Parks and Nature Reserves

9 Classified Road Reservation

10 Low Density Tourist

Part 2 Rural and environmental zones

11 What rural and environmental zones apply in this plan?

The following rural and environmental zones apply as identified on the map:

1 (a1) Rural

1 (a2) Rural (Prime/Flooding)

1 (a3) Rural (Upper Water Catchment)

1 (a4) Rural (Lower Water Catchment)

1 (d) Rural (Future Urban)

1 (f) Rural (Forestry)

7 (a) Environment Protection (Wetlands)

7 (b) Environment Protection (Vegetation Conservation)

7 (f) Environment Protection (Coastal Lands)

7 (g) Environment Protection (Archaeological)

The following development control table gives the objectives of each zone, a description of the zone and of the development that may be carried out without consent or only with consent or that is prohibited in the zone. Development consent must be obtained from the Council.

The Council must not grant development consent if in the opinion of the Council the proposed development is inconsistent with any of the objectives of the zone in which it is intended to be carried out.

Zone 1 (a1) Rural

1 Objectives of Zone

The primary objectives of this zone are:

- (a) to encourage the productive and efficient use of land for agriculture,
- (b) to protect commercial agricultural enterprises,
- (c) to permit appropriate agriculture-related land uses and certain non agriculture-related land uses which will not adversely affect agricultural productivity,
- (d) to protect, conserve and enhance natural and scenic resources, wildlife habitat refuges and corridors, and
- (e) to control development that could:
 - (i) have an adverse impact on rural character,
 - (ii) create unreasonable or uneconomic demands for the provision or extension of public amenities and services, or
 - (iii) cause adverse physical effects such as erosion hazard, bush fire risk, flooding and the like.

The secondary objectives of the zone are:

- (a) to provide for small holding rural-residential living opportunities where appropriately located, and
- (b) to control the density of rural-residential development and to ensure proper regard is given to suitable siting in regard to access, natural hazards, landscape quality and physical environment.

2 Description of the Zone

This zone identifies land which is of secondary agriculture value and includes localities identified as appropriate for rural-residential development.

3 Without Development Consent

Development for the purpose of:

agriculture (other than animal establishments or intensive livestock keeping establishments); bush fire hazard reduction; dams used for agriculture; forestry; home-based child care; utility installations.

Exempt development.

4 Only with Development Consent

Any development not included in Item 3 or 5.

5 Prohibited

Development of land (that is not shown edged with a broken black line and as designated for rural-residential development on the map) for the purpose of:

amusement parlours; boarding houses; brothels; clubs; cluster housing; commercial premises; hospitals; housing for aged or disabled persons; industries (other than rural industries, extractive industries and industries allowed by clause 24); institutions; integrated housing; light industries; liquid fuel depots; medium density housing; motor showrooms; offensive or hazardous industries; recreation facilities; residential flat buildings; restricted premises; service stations; shops (other than general stores); taverns; tourist accommodation (other than rural tourist facilities); warehouses.

Development of land (that is shown edged with a broken black line and as designated for rural-residential development on the map) for the purpose of:

abattoirs; aerodromes; agricultural machinery showrooms; amusement parlours; animal establishments; boarding houses; bulk stores; bus depots; bus stations; car repair stations; clubs; commercial premises; extractive industries; helipads; heliports; hospitals; industries (other than home industries); institutions; integrated housing; intensive livestock keeping establishments; junkyards; light industries; liquid fuel depots; materials recycling depots; mines; medium density housing; motor showrooms; offensive or hazardous industries; recreation vehicle areas; restricted premises; residential flat buildings; rural industries; sawmills; service stations; shops (other than general stores); stock and saleyards; timber yards; tourist accommodation (other than rural tourist facilities); transport terminals; warehouses; waste disposal depots.

Zone 1 (a2) Rural (Prime/Flooding)

1 Objectives of Zone

The objectives of this zone are:

- (a) to protect commercial agricultural enterprises and land of prime agricultural value,
- (b) to permit appropriate agriculture-related land uses and certain non agriculture-related land uses which will not adversely affect agricultural productivity,
- (c) to prevent inappropriate development of prime crop and pasture land for purposes other than agriculture, and to discourage further subdivision,
- (d) to ensure that development of land in that part of the zone which is liable to flooding is carried out in a manner appropriate to the flood hazard,
- (e) to protect, conserve and enhance natural and scenic resources, wildlife habitat refuge areas and corridors, and
- (f) to control development that could:
 - (i) have an adverse impact on the rural character of the land in the zone,
 - (ii) create unreasonable or uneconomic demands for the provision or extension of public amenities and services, or
 - (iii) be subjected to physical limitations such as erosion hazard, bush fire risk, flooding and the like.

2 Description of the Zone

This zone identifies land which is of prime agricultural value and/or is flood prone.

3 Without Development Consent

Development for the purpose of:

agriculture (other than animal establishments or intensive livestock keeping establishments); bush fire hazard reduction; dams used for agriculture; forestry; home-based child care; utility installations.

Exempt development.

4 Only with Development Consent

Any development not included in item 3 or 5.

5 Prohibited

Development for the purpose of:

amusement parlours; boarding houses; brothels; camping grounds; caravan parks; car repair stations (other than the storage and servicing of vehicles associated with industries allowed by clause 24); cemeteries; clubs; cluster housing; commercial premises; crematoriums; exhibition houses; extractive industries within the area identified by clause 63; generating works; group homes; helipads; heliports; hospitals; hotels; housing for aged or disabled persons; industries (other than rural industries, industries allowed by clause 24 and extractive industries other than within the area identified by clause 63); institutions; integrated housing; junkyards; light industries; liquid fuel depots; material recycling depots; medium density housing; motels; motor showrooms; multiple occupancy; offensive or hazardous industries; places of assembly; places of public worship; recreation facilities; recreation vehicle areas; refreshment rooms (other than associated with rural tourist facilities); residential flat buildings; restricted premises; service stations; shops (other than general stores); taverns; tourist accommodation; tourist facilities; warehouses; waste disposal depots.

Zone 1 (a3) Rural (Upper Water Catchment)

1 Objectives of Zone

The primary objective of this zone is to ensure that development is carried out in a manner that does not adversely affect downstream water quantity and quality.

The secondary objectives of this zone are:

- (a) to ensure that the long-term potential and viability of good agricultural land is protected,
- (b) to permit appropriate agriculture-related land uses and certain non agriculture-related land uses which will not adversely affect agricultural productivity,
- (c) to protect, conserve and enhance natural and scenic resources, wildlife habitat refuge areas and corridors, and
- (d) to control development that could:

- (i) have an adverse impact on the downstream water quantity and quality and the rural character of the land through disturbance to the landscape from clearing, earthworks and access roads,
- (ii) create unreasonable or uneconomic demands for the provision or extension of public amenities and services, or
- (iii) be subjected to physical limitations such as erosion hazard, bush fire risk, flooding and the like.

2 Description of the Zone

The zone identifies the upper catchments of the Nambucca and Taylors Arm Rivers and their tributaries. The zone allows limited rural and rural-related activities.

3 Without Development Consent

Development for the purpose of:

agriculture (other than animal establishments or intensive livestock keeping establishments); bush fire hazard reduction; dams used for agriculture; forestry; home-based child care; utility installations.

Exempt development.

4 Only with Development Consent

Any development not included in Item 3 or 5.

5 Prohibited

Development for the purpose of:

abattoirs; aerodromes; agricultural machinery showrooms; amusement parlours; animal establishments; boarding houses; brothels; bulk stores; bus depots; car repair stations; clubs; cluster housing; commercial premises; generating works; helipads; heliports; hospitals; hotels; housing for aged or disabled persons; industries (other than rural industries and extractive industries); institutions; integrated housing; intensive livestock keeping establishments; junkyards; light industries; liquid fuel depots; materials recycling depots; medium density housing; mines; motels; motor showrooms; multiple occupancies; offensive or hazardous industries; recreation vehicle areas; refreshment rooms; restricted premises; residential flat buildings; sawmills; service stations,

shops (other than general stores); stock and saleyards; taverns; tourist accommodation; tourist facilities; transport terminals; warehouses; waste disposal depots.

Zone 1 (a4) Rural (Lower Water Catchment)

1 Objectives of Zone

The primary objective of this zone is to prevent development within the zone which would have a detrimental effect on the quantity and quality of the Council's urban water supply.

The secondary objectives of this zone are:

- (a) to ensure that the long-term potential and viability of good quality agricultural land is protected,
- (b) to permit appropriate agriculture-related land uses and certain non agriculture-related land uses which will not adversely affect agricultural productivity and water quality,
- (c) to protect, conserve and enhance natural and scenic resources, wildlife habitat refuge areas and corridors, and
- (d) to control development that could:
 - (i) have an adverse impact on the downstream water quantity and quality and the rural character of the land through disturbance to the landscape from clearing, earthworks and access roads,
 - (ii) create unreasonable or uneconomic demands for the provision or extension of public amenities and services, or
 - (iii) be subjected to physical limitations such as erosion hazard, bush fire risk, flooding and the like.

2 Description of the Zone

The zone identifies land within the lower water catchment area serving the area's urban water supply borefields at Bowraville.

3 Without Development Consent

Development for the purpose of:

agriculture (other than animal establishments or intensive livestock

keeping establishments); bush fire hazard reduction; dams used for agriculture; home-based child care; utility installations.

Exempt development.

4 Only with Development Consent

Any development not included in Item 3 or 5.

5 Prohibited

Development for the purpose of:

abattoirs; aerodromes; agricultural machinery showrooms; amusement parlours; animal establishments; boarding houses; brothels; bulk stores; bus depots; car repair stations; clubs; cluster housing; commercial premises; extractive industries within the area identified by clause 63; generating works; helipads; heliports; hospitals; housing for aged or disabled persons; industries (other than rural industries and extractive industries other than within the area identified by clause 63); institutions; integrated housing; intensive livestock keeping establishments; junkyards; light industries; liquid fuel depots; materials recycling depots; medium density housing; mines; motor showrooms; multiple occupancies; offensive or hazardous industries; recreation vehicle areas; restricted premises; residential flat buildings; sawmills; service stations; shops (other than general stores); stock and saleyards; taverns; tourist accommodation (other than rural tourist facilities); transport terminals; warehouses; waste disposal depots.

Zone 1 (d) Rural (Future Urban)

1 Objectives of Zone

The objectives of this zone are:

- (a) to identify land which is to be investigated in respect to its suitability for rezoning at a later date for urban purposes,
- (b) to ensure that development within the zone is compatible with the anticipated urban development of the land,
- (c) to ensure that development maintains the rural character of the locality and minimises disturbance to the landscape through clearing, earthworks and access roads,

- (d) to ensure that development does not create unreasonable or uneconomic demands, or both, for provision or extension of public amenities or services, and
- (e) to ensure that the release of land for urban purposes, by rezoning, does not take place unless:
 - (i) sufficient demand exists for the release of urban land, and
 - (ii) appropriate urban infrastructure and facilities are available to the land or can be provided to the land in a manner which does not create an unreasonable or uneconomic demand, or both, for the provision or extension of such infrastructure and facilities.

2 Description of the Zone

This zone applies to land for future urban release at Macksville, Nambucca Heads, Valla Beach and Scotts Head. The zone is intended to operate as a holding zone for land until it is released for urban development.

3 Without Development Consent

Development for the purpose of:

agriculture (other than animal establishments and intensive livestock keeping establishments); bush fire hazard reduction; dams used for agriculture; forestry; home-based child care; utility installations.

Exempt development.

4 Only with Development Consent

Any development not included in Item 3 or 5.

5 Prohibited

Development for the purpose of:

abattoirs; aerodromes; agriculture machinery showrooms; amusement parlours; animal establishments; boarding houses; brothels; bulk stores; bus depots; car repair stations; clubs; cluster housing; commercial premises; garbage disposal areas; extractive industries; generating works; helipads; heliports; hospitals; hotels; housing for aged or disabled persons; industries (other than rural industries); institutions; integrated housing; intensive livestock keeping establishments; junkyards; light

industries; liquid fuel depots; materials recycling depots; medium density housing; mines; motels; motor showrooms; multiple occupancies; offensive or hazardous industries; recreation vehicle areas; refreshment rooms; restricted premises; residential flat buildings; rural tourist facilities (other than bed and breakfast establishments); sawmills; service stations, shops; stock and saleyards; taverns; tourist facilities; tourist accommodation; transport terminals; warehouses; waste disposal depots.

Zone 1 (f) Rural (Forestry)

1 Objectives of Zone

The objective of this zone is to enable the continuance and expansion of forestry and development for associated purposes.

2 Description of the Zone

This zone identifies land dedicated as State forest and managed by the Forestry Commission of New South Wales.

3 Without Development Consent

Development for the purpose of:

agriculture (other than animal establishments and intensive livestock keeping establishments); bush fire hazard reduction; any land use authorised under the [Forestry Act 1916](#); public utility undertakings; recreation areas; roads; utility installations.

Exempt development.

4 Only with Development Consent

Development for the purpose of:

communications facilities; extractive industries; mining; sawmills.

5 Prohibited

Any development not included in Item 3 or 4.

Zone 7 (a) Environment Protection (Wetlands)

1 Objectives of Zone

The objectives of this zone are:

- (a) to protect and conserve estuaries and wetlands to enable them to continue to function as breeding and feeding areas for birdlife, fish and shellfish,
- (b) to ensure the ecological, scenic and other environmental attributes of functioning wetlands are not altered,
- (c) to encourage and promote rehabilitation of previously disturbed wetlands, and
- (d) to contribute to the implementation of *State Environmental Planning Policy No 14—Coastal Wetlands*.

2 Description of the Zone

The Environment Protection (Wetlands) zone contains all wetlands within the area of Nambucca identified in *State Environmental Planning Policy No 14—Coastal Wetlands* and by NSW Fisheries.

3 Without Development Consent

Nil.

4 Only with Development Consent

Development for the purpose of:

agriculture (other than animal establishments and intensive livestock keeping establishments); aquaculture; bed and breakfast establishments; building of levees; bush fire hazard reduction; camping grounds without buildings; clearing of native vegetation; drainage; dwelling-houses; environmental facilities; extractive industries; filling; home activities; recreation areas; roads; utility installations.

5 Prohibited

Any development not included in Item 4.

Zone 7 (b) Environment Protection (Vegetation Conservation)

1 Objectives of Zone

The objectives of this zone are:

- (a) to promote the preservation, conservation and enhancement of significant indigenous fauna and flora and landscape features in the area

of Nambucca,

- (b) to prohibit development within this zone which is likely to have a detrimental effect on the habitat, landscape and/or scenic quality of the locality, and
- (c) to enable the development of public works and ancillary recreation amenities where such development does not have significant detrimental effect on the habitat, landscape or scenic quality of the locality.

2 Description of the Zone

This zone identifies natural scenic and bushland areas of the Nambucca area not suitable for urban development. Such areas need to be protected and preserved for their value to the community as part of the natural heritage, their aesthetic value and value as a recreational, educational and scientific resource.

3 Without Development Consent

Development for the purpose of:

bush fire hazard reduction.

4 Only with Development Consent

Development for the purpose of:

agriculture (other than animal establishments and intensive livestock keeping establishments); bed and breakfast establishments; clearing of native vegetation; community buildings; dwelling-houses; drainage; environmental facilities; home activities; recreation areas; roads; utility installations.

5 Prohibited

Any development not included in Item 3 or 4.

Zone 7 (f) Environment Protection (Coastal Lands)

1 Objectives of Zone

The objectives of this zone are:

- (a) to protect environmentally sensitive coastal lands to preserve their scenic and natural environmental functions,

- (b) to preserve wildlife habitats,
- (c) to prevent development which would adversely affect (or be adversely affected, over both the short and long-term, by) coastal processes, and
- (d) to enable the development of public works and recreation amenities where such development does not have significant detrimental effect on the habitat, landscape or scenic quality of the locality.

2 Description of the Zone

This zone identifies the coastal foreshore areas of the Nambucca Shire Council's area, which are important environmental and recreational resources for residents and tourists of the area and the mid-north coast region. The zone also serves to protect development from coastal hazards as well as to ensure development does not adversely affect the ecology and scenic value of the coastal areas.

3 Without Development Consent

Development for the purpose of:

bush fire hazard reduction.

4 Only with Development Consent

Development for the purpose of:

agriculture (other than animal establishments and intensive livestock keeping establishments); beach amenities; bed and breakfast establishments; camping grounds; caravan parks; clearing of native vegetation; community buildings; drainage; dwelling-houses; environmental facilities; extractive industries; forestry; home activities; jetties; oyster farming and ancillary buildings; picnic grounds; roads; recreation areas; utility installations.

5 Prohibited

Any development not included in Item 3 or 4.

Zone 7 (g) Environment Protection (Archaeological)

1 Objectives of Zone

The objective of this zone is to preserve areas that are of significance to the Aboriginal culture and to the local Aboriginal community because of their

historical or mythological association.

2 Description of the Zone

The zone identifies Aboriginal archaeological sites of special significance to Aboriginal culture.

3 Without Development Consent

Nil.

4 Only with Development Consent

Any development authorised under the *National Parks and Wildlife Act 1974*, including any development ordinarily incidental or subsidiary to that development.

5 Prohibited

Any development not included in Item 4.

12 What controls apply to subdivision of land in rural and environmental zones?

- (1) Subdivision of land in rural and environmental zones must comply with the requirements of the following table:

Table

Zone	Minimum Lot Size
1 (a1), 1 (a2), 1 (a4) & 1 (f)	40ha
1 (a1) (shown inside broken black edging on map)	0.5ha (sewered) 1ha (unsewered)
1 (a3)	100ha
1 (d)	20ha
7 (a), 7 (b), 7 (f) & 7 (g)	40ha

- (2) Nothing in subclause (1) prevents the Council from granting consent to an application to create a smaller lot:

- (a) within Zone No 1 (a1), pursuant to clause 16, or
- (b) comprised of land a part of which is within Zone No 1 (a1) (and shown inside broken black edging on the map), of a minimum area of .5 hectares (sewered) or 1 hectare (unsewered), with the remaining part comprised of land within Zone No 1 (a1), 1 (a2) or 7 (a), if the smaller lot created will be used for a purpose allowed by the zoning or zonings of the lot,

- (c) where it is a residue lot remaining after a subdivision pursuant to clause 16 comprising land within Zone No 1 (a1), 1 (a2) or 7 (a), on which a dwelling-house is erected that is used for a purpose allowed by the zoning of the lot, or
- (d) within Zone No 1 (a1), 1 (a2), 1 (a3), 1 (a4) or 7 (a), for a permissible purpose other than agriculture, forestry or a dwelling-house.

13 What general considerations apply to development?

- (1) The Council must not consent to development on rural land (except where shown inside broken black edging on the map) without taking into consideration the effect of the carrying out of that development on:
 - (a) the present use of the land, the potential use of the land for the purpose of agriculture and the potential of any of the land which is prime crop and pasture land for sustained agricultural production,
 - (b) vegetation, timber production, land capability (including soil resources and soil stability) and water resources (including the quality and stability of water courses and ground water storage and riparian rights),
 - (c) the future recovery of known or prospective areas of valuable deposits of minerals, coal, sand, gravel or other extractive materials,
 - (d) the protection and conservation of areas of significance for nature conservation (including wildlife habitat areas and corridors, significant wetlands, dunes or remnant rainforest vegetation systems) or of high scenic or recreational value, and places and buildings of archaeological or heritage significance, including Aboriginal relics and places, and
 - (e) the cost of providing, extending and maintaining public amenities and services to the development.
- (2) As well as the matters referred to in subclause (1), the Council must take into consideration the relationship of the proposed development to development on adjoining land or on other land in the locality.
- (3) Subclause (1) does not apply to development, being:
 - (a) an addition to a building or work that will not significantly increase its size or output, or
 - (b) development ancillary to a land use for the purpose of which development may be carried out under this plan without the consent of the Council, or
 - (c) the erection of a dwelling-house or two dwellings on an allotment of land created in accordance with this plan primarily for the purpose of a dwelling-house or dual occupancy.

14 What controls apply to the erection of dwelling-houses in rural zones?

- (1) A dwelling-house may, with the consent of the Council, be erected on vacant land within Zone No 1 (a1), 1 (a2), 1 (a3), 1 (a4), 1 (d), 1 (f), 7 (a), 7 (b), 7 (f) or 7 (g) only where:
- (a) in the case of land within Zone No 1 (d), the land has an area of not less than 20ha, or
 - (b) in the case of land within Zone No 1 (a1) (except where shown inside the broken black edging on the map), 1 (a2), 1 (a4), 1 (f), 7 (a), 7 (b), 7 (f) or 7 (g), the land has an area of not less than 40 hectares, or
 - (c) in the case of land within Zone No 1 (a3), the land has an area of not less than 100 hectares, or
 - (d) the land comprises an allotment created by a subdivision in accordance with clause 12 (2) and the use of the dwelling-house is ancillary and subsidiary to the development of the allotment, or
 - (e) the land comprises an allotment created by a subdivision to which consent was granted on or after 16 June 1967 (being the date on which *Interim Development Order No 1—Shire of Nambucca* took effect) and before 1 December 1995 (being the date on which [Nambucca Local Environmental Plan 1995](#) took effect), being an allotment on which, if it had been vacant, a dwelling-house could have been erected before 1 December 1995, or
 - (e1) the land comprises an allotment resulting from a boundary alteration made to an allotment prescribed by paragraph (e) pursuant to Clause 6 of [State Environmental Planning Policy No 4—Development Without Consent](#), or
 - (f) the land comprises an allotment created by a subdivision (for the purpose of a boundary adjustment as referred to in clause 6 (1) (b) of [State Environmental Planning Policy No 4—Development Without Consent](#)) to which approval was granted (under the [Local Government Act 1919](#)) on or after 20 November 1987 and before 16 September 1993, or
 - (g) the land comprises an existing parcel, or
 - (h) in the case of land within Zone No 1 (a1) designated for rural-residential purposes on the map:
 - (i) if the land is connected to a reticulated sewer—the land has an area of not less than 0.5 hectares, or
 - (ii) if the land is not connected to a reticulated sewer—the land has an area of not less than 1 hectare.

- (2) Subject to subclause (3), the Council may grant consent to the erection of an additional dwelling-house on land to which subclause (1) applies on which a dwelling-house is already erected if:
 - (a) the additional dwelling-house will be actually occupied by a person related, employed or engaged by the owner of the land for the purpose of agriculture on that land, and
 - (b) the total number of dwellings erected on the land would not:
 - (i) exceed one for each 40 hectares of the land in the case of land within Zone No 1 (a1) (except where shown inside broken black edging on the map) or No 1 (a2), 1 (a4), 1 (d), 1 (f), 7 (a), 7 (b), 7 (f) or 7 (g), or
 - (ii) exceed one for each 100ha in the case of land within Zone No 1 (a3).
- (3) The Council must not grant consent to an additional dwelling-house pursuant to subclause (2) unless it is satisfied that the needs of existing agriculture on the land genuinely require that rural workers reside on the site.
- (4) A dwelling-house may, with the consent of the Council, be erected on an allotment of land on which another dwelling-house is erected where the use of the first mentioned dwelling-house will not commence until the use of the second mentioned dwelling-house has permanently ceased or it has been demolished.

15 What controls apply to rural dual occupancy development?

Where development for the purpose of a dwelling-house may be carried out on an allotment of land within a rural zone, a person may, with the consent of the Council:

- (a) alter or add to a dwelling-house erected on the allotment so as to create two dwellings, or
- (b) erect two attached dwellings on the allotment.

16 What controls apply to rural-residential development?

- (1) This clause applies to development which consists of subdividing land and erecting dwelling-houses within Zone No 1 (a1) identified for rural-residential development purposes (being the land shown inside the broken black line on the map).
- (2) The Council must not consent to a subdivision to which this clause applies unless the Council is satisfied that the subdivision design complies with the general principles set out in Schedule 1.
- (3) The Council must not consent to a subdivision of land to which this clause applies which creates allotments in a cluster housing development (whether to be effected under the *Strata Titles Act 1973*, or otherwise) unless the average area of land for

each dwelling to be erected in carrying out the development will be at least 0.5 ha (where sewerred) and at least 1 ha (where unsewered).

- (4) (Repealed)
- (5) Consent is required for the erection of a dwelling-house on an allotment of land created by subdivision prior to 16 June 1967, (whether or not affected by any boundary alteration made to such allotments pursuant to clause 6 of *State Environmental Planning Policy No 4—Development Without Consent*).
- (6) The Council must not consent to development pursuant to this clause where the approval would result in a total number of lots created pursuant to this clause in a 5-year period exceeding the number specified in writing to Council with the approval of the Director of Planning.

17 What controls apply to multiple occupancy development?

- (1) This clause applies to land within Zone No 1 (a1).
- (2) Nothing in this clause prevents the carrying out of development, with the consent of the Council, for the purpose of multiple occupancy where:
 - (a) the land on which the development is carried out has an area of not less than 40 hectares, and
 - (b) the development does not exceed one dwelling for each 10 hectares of land, and
 - (c) the development consists of individual dwellings or groups or clusters of buildings which together function as dwelling-houses.
- (3) In determining a development application for such a consent, the Council must have regard to:
 - (a) the adequacy of public roads and bridges serving the land in relation to the additional traffic likely to be generated by the development, the cost of upgrading roads and bridges to a standard appropriate to the likely level of traffic and the sources of finance for any necessary road and bridge works,
 - (b) the availability of a water supply to the land for domestic, agricultural and fire fighting purposes and, where a proposed water supply is from a river, creek, dam or other waterway, the effect on other users of that water supply,
 - (c) the availability of electricity and telephone services,
 - (d) the availability of community facilities and services to meet the needs of the occupants of the land,
 - (e) whether adequate provision has been made for waste water and garbage disposal from the land,

- (f) the impact on the vegetation cover of the land and any measures proposed for environmental protection, site rehabilitation or reforestation,
 - (g) whether the land is subject to bush fires, flooding, soil erosion or landslip and, if so, the adequacy of any measures proposed to protect occupants, buildings, internal access roads, service installations and land adjoining the development from any such hazard,
 - (h) the visual impact of the proposed development on the landscape,
 - (i) the effect of the proposed development on the present and potential use, including agricultural use, of the land and of other land in the vicinity, and
 - (j) the effect of the proposed development on the quality of the water resources in the vicinity, and
 - (k) whether resources of gravel or other minerals or extractive deposits will be sterilised by the development.
- (4) The Council must not consent to an application for the carrying out of development on land for the purpose of multiple occupancy unless the site plan accompanying the application identifies:
- (a) vegetated areas requiring environmental protection or areas where rehabilitation or reforestation will be carried out,
 - (b) any part of the land which is subject to a risk of flooding, bush fire, landslip or erosion or any other physical constraint to development on the land,
 - (c) any areas of the land to be used for development other than for dwellings,
 - (d) the source and capacity of any water supply, electricity, telephone and waste water and garbage disposal systems for the dwellings,
 - (e) the proposed access from a public road to the area or areas in which the dwellings are to be situated,
 - (f) floor and elevation plans of the dwellings.
- (5) The Council must not consent to any such development unless:
- (a) it has considered a bush fire hazard reduction plan of management for the site area, and
 - (b) it is satisfied that the allotments on which the development will be carried out will be consolidated into one parcel.
- (6) Whenever development is carried out on land in accordance with a consent granted pursuant to this clause, the carrying out of the following development on or with

respect to that land is prohibited:

- (a) development for the purpose of a residential flat building, motel, hotel, caravan park or any other type of holiday, tourist or weekend residential accommodation, and
- (b) subdivision of the land other than subdivision pursuant to clause 9 (2) (paragraph (g) excepted).

18 What controls apply to clearing of land?

- (1) For the purpose of this clause, **clear** means destroy native vegetation, except:
 - (a) any tree that is required or explicitly authorised by the Council to be cleared or any tree which may be cleared in pursuance of the provisions of any Act or statutory instrument or by any statutory authority in pursuance of an Act or statutory instrument,
 - (b) any noxious plants,
 - (c) any tree that represents a danger to life or property to such an extent that, in the opinion of Council, requires it being cleared,
 - (d) any tree required for the siting of a dwelling-house or building for which consent has been granted or sufficiently close to the structure to require its removal to reduce bush fire hazard,
 - (e) any tree for the purpose of bush fire hazard reduction, or
 - (f) any tree, if its destruction is for the purpose of or to facilitate rural fenceline construction in accordance with any necessary approval and any tree which is within 5 metres on either side of the fenceline.
- (2) Land within Zone No 1 (a1), 1 (a2), 1 (a3), 1 (a4) or 1 (d) may be cleared or logged for the purposes of agriculture or forestry without the consent of Council, except where:
 - (a) the land is at a slope in excess of 1 in 3,
 - (b) the land comprises a wildlife corridor or vegetation worthy of conservation identified by the Department of Conservation and Land Management's Study entitled "Remnant Vegetation Conservation Significance", and the map entitled "Significant Vegetation Types", dated September 1994, or as amended by the Council,
 - (c) the land forms a scenic backdrop to urban areas and is indicated by diagonal hatching on the map, or
 - (d) the land is within 300 metres (or as otherwise determined in a development control plan) of the west bank of Warrell Creek and the western boundary of any

land within Zone No 7 (a) abutting the bank, north of the weir at Scotts Head.

- (3) However, any land within any of the zones referred to in subclause (2) may be cleared for the purpose of agriculture where that land was once cleared and used for agricultural purposes and has been left fallow for a period not longer than 15 years and the clearing proposed is not subject to the provisions of the *Soil Conservation Service Act 1938*.
- (4) Land within Zone No 7 (a) must not be cleared, drained or filled or have a levee bank constructed on it, except with the consent of the Council.
- (5) The Council must not grant consent to the clearing of land referred to in this clause unless it is satisfied that:
 - (a) the clearing is essential for the reasonable economic use of the land or the provision of utility services,
 - (b) the clearing is proposed to be carried out in a manner which minimises:
 - (i) the visual and scenic impact,
 - (ii) the risk of soil erosion (including erosion by wind), and
 - (iii) the risk of water pollution, through increased siltation or otherwise,
 - (c) in the opinion of the Council, appropriate measures are proposed to retain parts of existing vegetation systems, or to landscape the site,
 - (d) the clearing pattern will not adversely affect wildlife and wildlife movement patterns, and
 - (e) the cleared material will be satisfactorily disposed of, and, in particular, will not obstruct waterways.
- (6) Nothing in this clause authorises the clearing of land in contravention of the provisions of any Act or law concerned with soil erosion, protection of catchment areas or the like.

19 What controls apply to development adjoining the wetland zone?

The Council must not grant consent to the development of land:

- (a) adjoining land within Zone No 7 (a), or
- (b) within the immediate drainage catchment of land within Zone No 7 (a),

unless it has taken into consideration:

- (c) the likely effect of the development on the flora and fauna found in the wetlands, and

- (d) the likely effect of the development on the water table, and
- (e) the likely effect on the wetlands of any proposed clearing, draining, excavation or filling.

20 What controls apply to development in the coastal protection zone?

- (1) Subject to this clause, the Council must not grant consent to development of land within Zone No 7 (f) unless it is satisfied that the development:
 - (a) will not detract from the visual or scenic character of the coastal hinterland,
 - (b) will not increase the risk of coastal erosion, or be subject to coastal erosion or inundation,
 - (c) will not alter coastal dune systems,
 - (d) will not adversely affect significant vegetation or wildlife habitat areas,
 - (e) will not adversely affect estuarine wetlands, and
 - (f) will not pollute subterranean water resources.
- (2) The Council must not grant consent to development on land within Zone No 7 (f) indicated by black cross hatching on the map except with the concurrence of the Director.
- (3) In considering whether to grant concurrence under subclause (2), the Director must take into consideration:
 - (a) the extent to which the development would result in the degradation of, or restriction of access to, coastal recreation areas, and
 - (b) the extent to which the development would adversely affect the scenic qualities of the coastal landscape, and
 - (c) the likelihood of the proposed development adversely affecting or being adversely affected by coastal processes.

21 Who must be consulted about proposed development in the coastal hazard area?

The Council must not grant consent to development within the coastal hazard area as shown on the map unless it has notified the Director-General of the Department of Public works and Services and taken into consideration any representations made to it by the Director-General within 30 days of sending the notice.

22 What provisions apply to dwelling-houses fronting unformed or unmade roads?

Regardless of any other provisions of this plan, a dwelling-house must not be erected on land within any zone that has access only by way of an unformed road or unmade road,

except with the consent of the Council.

23 What provisions apply to development in the Rural (Upper Water Catchment) and Rural (Lower Water Catchment) zones?

The Council must not grant consent to development on land within Zone No 1 (a3) or 1 (a4) unless it is satisfied that the development:

- (a) will include appropriate controls for the mitigation of the polluting effects of runoff from the site area, and
- (b) will not adversely affect the aquifer or its capacity to recharge.

24 Can industries be undertaken on rural land?

(1) Despite any other provision of this plan, the Council may grant consent to the carrying out of development for the purposes of an industry (other than a rural industry) on land within Zone No 1 (a1) (except land shown inside the broken black line on the map), 1 (a2) or 1 (f) if:

- (a) the Council considers that the land is appropriately located in relation to urban or rural-residential areas, and
- (b) the land is suitable and practical for that industry, and
- (c) the development will not adversely affect the use and enjoyment of any adjoining land, and
- (d) the development is located and designed to minimise any adverse environmental impact.

(2) In determining any development application in relation to land referred to in subclause (1), the Council may impose such conditions as it considers appropriate to ensure that:

- (a) satisfactory arrangements have been made for the provision of a water supply and waste disposal and the construction of drainage works necessary for that development, and
- (b) where the development is, in the opinion of the Council, likely to cause unreasonable noise, or visual or water pollution, all means available to minimise the effects of such noise or pollution have been employed.

Part 3 Residential zones

25 What residential zones apply in this plan?

The following residential zones apply as identified on the map:

- 2 (a) Residential (Low-Medium Density)

2 (b) Residential (Medium-High Density)

2 (c) Residential (Flood Liable)

2 (d) Residential (Tourist)

2 (v) Residential (Village)

The following development control table gives the objectives of each zone, a description of the zone and of the development that may be carried out without consent or only with consent or that is prohibited in the zone. Development consent must be obtained from the Council.

The Council must not grant development consent if in the opinion of the Council the proposed development is inconsistent with any of the objectives of the zone in which it is intended to be carried out.

Zone 2 (a) Residential (Low-Medium Density)

1 Objectives of Zone

The objectives of this zone are:

- (a) to provide for detached and low to medium density housing and associated facilities in locations of high amenity and accessibility,
- (b) to enable development for purposes other than residential only if it is compatible with the character of the living area and has a domestic scale and character,
- (c) to ensure that due consideration is given to the likely impact of flooding in Macksville township by ensuring any new development incorporates flooding precautions and flood protection measures, and
- (d) to ensure that development does not create unreasonable demands, in the present or in the future, for the provision or extension of public amenities or services.

2 Description of the Zone

The Residential (Low-Medium Density) zone is characterised by detached houses. Some small scale medium density housing development will be scattered throughout the zone. This housing will typically consist of dual occupancy buildings, townhouses and cluster houses at a scale compatible with detached housing. Scope is also provided to allow smaller lots and integrated housing in specially designed subdivisions.

3 Without development consent

Development for the purpose of:

bush fire hazard reduction; home-based child care; utility installations.

Exempt development.

4 Only with Development Consent

Any development not included in Item 3 or 5.

5 Prohibited

Development for the purpose of:

abattoirs; advertising structures (other than relating to development being carried out on the land in accordance with consent); aerodromes; agricultural machinery showrooms; agriculture; amusement parlours; animal establishments; brothels; bulk stores; bus depots; bus stations; camping grounds; caravan parks; car repair stations; cemeteries; clubs; commercial premises; crematoriums; drive-in liquor shops; drive-in take-away food shops; extractive industries; forestry; generating works; helipads; heliports; hotels; industries; institutions; intensive livestock keeping establishments; junkyards; light industries; liquid fuel depots; manufactured home estates; materials recycling depots; mining; motels; motor showrooms; offensive or hazardous industries; plant nurseries; recreation establishments; recreation facilities; recreation vehicle areas; refreshment rooms; restricted premises; roadside stalls; rural sheds; sawmills; service stations; shops; stock and saleyards; taverns; tourist accommodation; tourist facilities; transport terminals; veterinary establishments; warehouses; waste disposal depots.

Zone 2 (b) Residential (Medium-High Density)

1 Objectives of Zone

The objectives of the zone are:

- (a) to allow higher residential densities in areas with good accessibility to services, employment and recreation facilities,
- (b) to restrict the height and bulk of residential buildings so that they remain in character with existing development,

- (c) to enable development for purposes other than residential only if it is compatible with the character of the living area and has a domestic scale and character,
- (d) to ensure that due consideration is given to the likely impact of flooding in Macksville township by ensuring any new development incorporates flooding precautions and flood protection measures, and
- (e) to ensure that development does not create unreasonable demands, in the present or in the future, for the provision or extension of public amenities or services.

2 Description of the Zone

The Residential (Medium-High Density) zone is characterised by a mix of detached and medium to high density residential buildings. The zone is intended to allow residential densities and heights to accommodate both residential and holiday rental demands.

3 Without Development Consent

Development for the purpose of:

bush fire hazard reduction; home-based child care; utility installations.

Exempt development.

4 Only with Development consent

Any development not included in Item 3 or 5.

5 Prohibited

Development for the purpose of:

abattoirs; advertising structures (other than relating to development being carried out on the land in accordance with consent); aerodromes; agricultural machinery showrooms; agriculture; amusement parlours; animal establishments; brothels; bulk stores; bus depots; bus stations; camping grounds; caravan parks; car repair stations; cemeteries; clubs; commercial premises; crematoriums; drive-in liquor shops; drive-in take-away food shops; extractive industries; forestry; generating works; helipads; heliports; hotels; industries; institutions; intensive livestock keeping establishments; junkyards; light industries; liquid fuel depots; manufactured home estates; materials recycling depots; mining; motels;

motor showrooms; offensive or hazardous industries; plant nurseries; recreation vehicle areas; refreshment rooms; recreation establishments; recreation facilities; restricted premises; roadside stalls; rural sheds; sawmills; service stations; shops (other than general stores); stock and saleyards; taverns; tourist accommodation; tourist facilities; transport terminals; veterinary establishments; warehouses; waste disposal depots.

Zone 2 (c) Residential (Flood Liable)

1 Objectives of Zone

The objectives of this zone are:

- (a) to permit residential infill development,
- (b) to limit the expansion of urban development on flood prone land, and
- (c) to minimise the public and private costs of flood damage, and the risks to life from flooding, by ensuring that any new development incorporates flooding precautions and flood protection measures.

2 Description of the Zone

This zone comprises the urban developed Kings Point area of Macksville which is significantly affected by flooding.

3 Without Development Consent

Development for the purpose of:

bush fire hazard reduction; utility installations.

4 Only with Development Consent

Any development not included in Item 3 or 5.

5 Prohibited

Development for the purpose of:

abattoirs; advertising structures (other than relating to development being carried out on the land in accordance with consent); aerodromes; agricultural machinery showrooms; agriculture; amusement parlours; animal establishments; bed and breakfast establishments; brothels; bulk stores; bus depots; bus stations; camping grounds; caravan parks; car

repair stations; cemeteries; crematoriums; child care establishments; clubs; cluster housing; commercial premises; crematoriums; drive-in liquor shops; drive-in take-away food shops; extractive industries; forestry; general stores; generating works; group homes; helipads; heliports; home-based child care; hotels; housing for aged or disabled persons; industries; institutions; integrated housing; intensive livestock keeping establishments; junkyards; light industries; liquid fuel depots; manufactured home estates; materials recycling depots; medium density housing; mining; motels; motor showrooms; motels; offensive or hazardous industries; plant nurseries; recreation establishments; recreation facilities; recreation vehicle areas; refreshment rooms; residential flat buildings; restricted premises; roadside stalls; rural sheds; sawmills; service stations; shops; stock and saleyards; taverns; tourist accommodation; tourist facilities; transport terminals; veterinary establishments; warehouses; waste disposal depots.

Zone 2 (d) Residential (Tourist)

1 Objectives of Zone

The objectives of this zone are:

- (a) to provide for residential and tourist activities, together with small scale ancillary retailing and other facilities, and
- (b) to ensure that development does not create unreasonable demands, in the present or in the future, for the provision or extension of public amenities or services.

2 Description of the Zone

The zone is characterised by a mix of residential and tourist development. Land within this zone is generally located near shops, public transport routes and beach side areas. Development in this zone will change progressively as older houses are replaced.

3 Without Development Consent

Development for the purpose of:

bush fire hazard reduction; home-based child care; utility installations.

Exempt development.

4 Only with Development Consent

Any development not included in Item 3 or 5.

5 Prohibited

Development for the purpose of:

abattoirs; advertising structures (other than relating to development being carried out on the land in accordance with consent); aerodromes; agricultural machinery showrooms; agriculture; amusement parlours; animal establishments; brothels; bulk stores; bus depots; bus stations; camp and caravan sites; car repair stations; cemeteries; clubs; commercial premises; crematoriums; drive-in liquor shops; drive-in take-away food shops; extractive industries; forestry; generating works; helipads; heliports; industries; institutions; intensive livestock keeping establishments; junkyards; light industries; liquid fuel depots; manufactured home estates; materials recycling depots; mining; motor showrooms; offensive or hazardous industries; recreation establishments; recreation facilities; recreation vehicle areas; restricted premises; roadside stalls; rural sheds; sawmills; service stations; shops (other than shops associated with other development allowed in the zone with a retail floor space no greater than 50 square metres); stock and sale yards; transport terminals; veterinary establishments; warehouses; waste disposal depots.

Zone 2 (v) Residential (Village)

1 Objectives of Zone

The objectives of this zone are:

- (a) to permit the variety of urban land uses required within small urban communities,
- (b) to ensure development does not take place unless adequate provision is made for water supply and sewage disposal,
- (c) to particularise, by means of a development control plan, the location, form, character, height and density of permissible development, and
- (d) to ensure that new development retains and enhances the existing village character (including heritage values) or proposed residential neighbourhood character.

2 Description of the Zone

Land within this zone is situated in the Bowraville village and small rural villages dispersed throughout the area of Nambucca.

3 Without Development Consent

Development for the purpose of:

bush fire hazard reduction; home-based child care; utility installations.

Exempt development.

4 Only with Development Consent

Any development not included in Item 3 or 5.

5 Prohibited

Development for the purpose of:

abattoirs; aerodromes; animal establishments; brothels; extractive industries; junkyards; liquid fuel depots; mining; offensive or hazardous industries; intensive livestock keeping establishments; recreation vehicle areas; restricted premises; rural sheds; sawmills; stock and saleyards; waste disposal depots.

26 What controls apply to residential subdivisions?

- (1) Except as provided by clause 27, land within Zone No 2 (a), 2 (b), 2 (c), 2 (d) or 2 (v) (where connected to Council's sewerage system) must not be subdivided for the purpose of a dwelling-house unless each allotment created by the subdivision that the Council is satisfied will be used for the erection of a dwelling-house will have an area of not less than 450 square metres.
- (2) The Council may consent to subdivision of land to create such an allotment only if:
 - (a) the physical characteristics of the proposed allotment, including slope, drainage, erosion hazard, topography, land capability and landscape attributes, are considered suitable by the Council for the erection of dwelling-houses,
 - (b) except in the case of an allotment that the Council is satisfied will be used for the purpose of residential infill development:
 - (i) the allotment will comprise or contain flood free land adequate, in the opinion of the Council, to provide a building site for the erection of a dwelling-house and any ancillary outbuildings, and

- (ii) there will be access, by means of flood free land, to the allotment,
 - (c) a stormwater management system will ensure to the best possible extent, to the satisfaction of the Council, that the peak discharge rate, volume and pollution load of stormwater leaving an allotment within the subdivision will be no greater than pre-development, and
 - (d) the planning and design of the subdivision creating the allotment ensures to the best possible extent, to the satisfaction of the Council, that the natural values of urban streams and downstream rivers and estuaries are maintained.
- (3) Land within Zone No 2 (v) (where not connected to Council's sewerage system) must not be subdivided for the purpose of dwelling-houses unless each allotment created by the subdivision will have an area of not less than 1,000 square metres and the Council has been satisfied by a soil test that the land is capable of septic disposal of domestic waste or the Council is otherwise satisfied that other acceptable means of disposal of domestic waste from the allotment will be provided.
- (4) In this clause, a reference to the area of an allotment does not, in the case of a hatchet shaped allotment, include a reference to the area of the access corridor of the allotment.

27 What controls apply to integrated housing?

- (1) Integrated housing development may, with the consent of the Council, be carried out on land within Zone No 2 (a), 2 (b), 2 (d) or 2 (v) (where connected to Council's sewerage system).
- (2) The Council must not grant consent to integrated housing development with respect to any such land unless it is satisfied that:
- (a) each proposed allotment has an area of 232 square metres or more,
 - (b) the development makes adequate provision with respect to the privacy of each proposed dwelling-house,
 - (c) the development makes adequate provision with respect to access to natural light for each proposed dwelling-house,
 - (d) the floor space ratio of each proposed dwelling-house will not exceed 0.5:1, and
 - (e) adequate arrangements will be made for the provision of water, sewerage, drainage and garbage services for each proposed dwelling-house.
- (3) In this clause:

adequate means satisfactory to the Council.

floor space ratio, in relation to a building, means the gross floor area of the building

(exclusive of the area of any car port or garage) to the area of the allotment on which the building is or is proposed to be erected.

28 What height limits apply in residential zones?

- (1) Except for housing for aged or disabled persons, the height of a building within Zone No 2 (a), 2 (c) or 2 (v) must not exceed 8 metres and in Zone No 2 (b) or 2 (d) must not exceed 14 metres.
- (2) In the case of an application for consent for a building within Zone No 2 (a), 2 (b), 2 (d) or 2 (v), the Council must consider height limits specified in any development control plan applying to the land.

29 What site area requirements apply in residential zones for residential flat buildings, medium density housing and cluster housing?

- (1) The amount of site area that is required for each dwelling-house within a residential zone depends on the zoning of the land and the size of the proposed dwelling, as shown in the following table:

Table

Zone	Site Area Required (in sq.m.)		
	Dwellings less than 55 sq.m. gross floor area	Dwellings 55 to 85 sq.m. gross floor area	Dwellings more than 85 sq.m. gross floor area
Residential flat buildings, medium density housing			
2 (a), 2 (v)	170	240	310
2 (b), 2 (d)	85	120	155
Cluster housing			
2 (a), 2 (b)			
2 (d), 2 (v)	—	320	320

- (2) The total site area required is calculated by adding together the individual site areas for each dwelling in the proposed development.

30 What specific controls apply for erection of dwelling-houses at Valla Beach?

Regardless of any other provisions of this plan, a dwelling-house may be erected only with Council’s consent on land identified as lots 1–89 DP 228703 and lot 2, DP 581794, Ocean View Drive, Tuna Street, Dolphin Place and Deep Creek Road, Valla Beach.

30A What subdivision controls apply to dual occupancy subdivision?

- (1) Land within Zone No 2 (a), 2 (b), 2 (d) or 2 (v) may be subdivided to create separate

land titles for each of the two dwellings that have been or will be created by dual occupancy development, regardless of any other provision of this plan, but only if:

- (a) the Council has granted consent for the subdivision,
 - (b) the dwellings are connected to Council's sewerage system or the Council is satisfied that the system is available for connection and that the dwellings will be connected to it,
 - (c) in the case of two attached dwellings, the area of the land to be subdivided is at least 450 square metres, and
 - (d) in any other case, the area of that land is at least 600 square metres.
- (2) The Council must not grant consent to such a subdivision unless the consent relates to land on which the dual occupancy development has been carried out or to land in respect of which the Council grants consent at the same time for the dual occupancy development.

Part 4 Business zones

31 What business zones apply in this plan?

The following business zone applies as identified on the map:

3 (a) General Business

The following development control table gives the objectives of the zone, a description of the zone, and of the development that may be carried out without consent or only with consent or that is prohibited in the zone. Development consent must be obtained from Council.

The Council must not grant development consent if in the opinion of the Council the proposed development is inconsistent with any of the objectives of the zone in which it is intended to be carried out.

Zone 3 (a) General Business

1 Objectives of Zone

The objectives of this zone are:

- (a) to encourage the provision of retail and business services and other associated supporting or ancillary development in the major business centres in the Nambucca area,
- (b) to accommodate the establishment of retail, commercial and professional services for local residents in conveniently located business

centres within the smaller villages and residential precincts where the scale and type of business development is compatible with the amenity of the surrounding areas,

- (c) to ensure that due consideration is given to the likely impact of flooding in the Macksville business centre by ensuring that any new development incorporates flooding precautions and flood protection measures, and
- (d) to preserve the historic character of Macksville precincts by protecting heritage items and by encouraging compatible development within and adjoining historic buildings and precincts.

2 Description of the Zone

The General Business zone comprises the core retail areas of Macksville and Nambucca Heads and the smaller retail areas of Valla Beach and Scotts Head.

3 Without Development Consent

Development for the purpose of:

utility installations.

Exempt development.

4 Only with Development Consent

Any development not included in Item 3 or 5.

5 Prohibited

Development for the purpose of:

agricultural machinery showrooms; agriculture; animal establishments; boarding houses; brothels; camp or caravan sites; cluster housing; dual occupancy, dwelling-houses (other than those used in conjunction with another land use which is not prohibited); exhibition homes; extractive industries; generating works; group homes; helipads; heliports; housing for aged or disabled persons; hospitals; industries (other than light industries); institutions; intensive livestock keeping; junkyards; liquid fuel depots; materials recycling depots; mining; offensive or hazardous industries; residential flat buildings (other than those used in conjunction with another land use which is not prohibited); roadside stalls; rural sheds; sawmills; stock and saleyards; transport terminals.

32 What height limit applies in the business zone?

A building within Zone No 3 (a) must not exceed a height of 12 metres.

Part 5 Industrial zones

33 What industrial zones apply in this plan?

The following industrial zones apply as identified on the map:

4 (a) General Industrial

4 (b) Industrial (Business)

The following development control table gives the objectives of each zone, a description of the zone and of the development that may be carried out without consent or only with consent or that is prohibited in the zone. Development consent must be obtained from the Council.

The Council must not grant development consent if in the opinion of the Council the proposed development is inconsistent with any of the objectives of the zone in which it is intended to be carried out.

Zone 4 (a) General Industrial

1 Objectives of Zone

The objectives of this zone are:

- (a) to enable the establishment of a broad range of industrial land uses,
- (b) to encourage diversification of the industrial employment base, and
- (c) to provide opportunities for non-industrial commercial activities that may reasonably be located in this zone.

2 Description of the Zone

This zone caters for a range of industrial development. Premises of a commercial or retailing nature are allowed where they serve the workforce, are ancillary to industry or are, in the opinion of Council, consistent with the objectives of the zone.

3 Without Development Consent

Development for the purpose of:

utility installations.

Exempt development.

4 Only with Development Consent

Any development not included in Item 3 or 5.

5 Prohibited

Development for the purpose of:

agriculture; animal establishments; bed and breakfast establishments; boarding houses; camping grounds; caravan parks; cluster housing; commercial premises (other than those ancillary to and used in conjunction with another land use which is not prohibited in this zone or which serves the daily convenience needs of the workforce of the industrial area or with a land use which, by virtue of its nature, the service it provides or the products distributed or sold in carrying it out, is consistent with the objectives of this zone); dwelling-houses (other than those ancillary to and used in conjunction with another land use which is not prohibited in this zone); group homes; housing for aged or disabled persons; hospitals; institutions; integrated housing; intensive livestock keeping establishments; medium density housing; mining; motels; professional consulting rooms; public buildings; refreshment rooms; residential flat buildings; restricted premises; roadside stalls; rural sheds; shops (other than those ancillary to and used in conjunction with a manufacturing land use which is not prohibited in this zone or which serves the daily convenience needs of the workforce of the industrial area or with a land use which, by virtue of its nature, the service it provides, or the products distributed or sold in carrying it out, is consistent with the objectives of this zone); tourist accommodation; tourist facilities; waste disposal depots.

Zone 4 (b) Industrial (Business)

1 Objectives of Zone

The objectives of this zone are:

- (a) to allow for a wide range of display and retail activities in conjunction with industry, warehousing and servicing industries and to encourage uses inappropriate to traditional business centres to locate in this zone,
- (b) to ensure that development is environmentally acceptable to the surrounding neighbourhood, and

- (c) to ensure that due consideration is given to the likely impact of flooding by ensuring that new development incorporates flooding precautions and flood protection measures.

2 Description of the Zone

This zone applies to part of Macksville providing for a wide range of display and retail activities in conjunction with industry that is environmentally acceptable to the surrounding neighbourhood. The zoning supports the nearby Macksville commercial area.

3 Without Development Consent

Development for the purpose of:

utility installations.

Exempt development.

4 Only with Development Consent

Any development not included in Item 3 or 5.

5 Prohibited

Development for the purpose of:

agriculture; animal establishments; bed and breakfast establishments; boarding houses; camping grounds; caravan parks; cluster housing; commercial premises (other than those ancillary to and used in conjunction with another land use which is not prohibited in this zone or which serves the daily convenience needs of the workforce employed within an industrial zone or with a land use which, by virtue of its nature, the service it provides or the products distributed or sold in carrying it out, is consistent with the objectives of this zone); dwelling-houses (other than those ancillary to and used in conjunction with another land use which is not prohibited in this zone); generating works; group homes; housing for aged or disabled persons; hospitals; industries (other than light industries); institutions; integrated housing; intensive livestock keeping establishments; junkyards; liquid fuel depots; medium density housing; mining; motels; offensive or hazardous industries; professional consulting rooms; public buildings; refreshment rooms; residential flat buildings; restricted premises; roadside stalls; rural sheds; sawmills; shops (other than those ancillary to and used in conjunction with a

manufacturing land use which is not prohibited in this zone or which serves the daily convenience needs of the workforce of the industrial area or with a land use which, by virtue of its nature, the service it provides, or the products distributed or sold in carrying it out, is consistent with the objectives of this zone); tourist accommodation; tourist facilities; waste disposal depots.

Part 6 Special use zones

34 What special use zones apply in this plan?

The following special use zones apply as identified on the map:

5 (a) Special Uses

5 (b) Special Uses (Railway)

The following development control table gives the objectives of each zone, a description of the zone and of the development that may be carried out without consent or only with consent or that is prohibited in the zone. Development consent must be obtained from the Council.

The Council must not grant development consent if in the opinion of the Council the proposed development is inconsistent with any of the objectives of the zone in which it is intended to be carried out.

Zone 5 (a) Special Uses

1 Objectives of Zone

The objective of this zone is to identify land required for the provision of public services and community facilities.

2 Description of the Zone

The Special Uses zone contains land used for community and government purposes (excluding railways). Specific special uses are indicated on the map.

3 Without Development Consent

Development for the purpose of:

bush fire hazard reduction; utility installations..

Exempt development.

4 Only with Development Consent

The particular development indicated on the map and any development ordinarily incidental or ancillary to that development.

Development for the purpose of:

communications facilities; roads.

5 Prohibited

Any development not included in Item 3 or 4.

Zone 5 (b) Special Uses (Railway)

1 Objectives of Zone

The objectives of this zone are to recognise existing railway land and to enable future development for railway and associated purposes.

2 Description of the Zone

The Special Uses (Railway) zone contains land used for railway purposes.

3 Without Development Consent

Any development for the purpose of railways authorised under the [Transport Administration Act 1988](#).

Development for the purpose of:

utility installations.

Exempt development.

4 Only with Development Consent

Nil.

5 Prohibited

Any development not included in Item 3.

35 Can schools be developed for community use?

Despite any other provision of this plan, the Council may grant development consent to the community use of the land and facilities of schools, colleges and other educational establishments and to the commercial operation of that land and those facilities.

35A What requirements are there for the acquisition of private land in Zone No 5 (a) reserved for a school?

If you own land within Zone 5 (a) reserved for the purpose of a school, you may request the Minister for Education and Training to acquire the land. The request must be in writing. On receipt of the request, the Minister for Education and Training must acquire the land.

Part 7 Recreational zones

36 What open space zones apply in this plan?

The following open space zones apply as identified on the map:

6 (a) Public Recreation

6 (c) Private Recreation

The following development control table gives the objectives of each zone, a description of the zone and of the development that may be carried out without consent or only with consent or that is prohibited in the zone. Development consent must be obtained from the Council.

The Council must not grant development consent if in the opinion of the Council the proposed development is inconsistent with any of the objectives of the zone in which it is intended to be carried out.

Zone 6 (a) Public Recreation

1 Objectives of Zone

The objectives of this zone are:

- (a) to identify proposed or existing publicly owned land that is used or is capable of being used for the purpose of active or passive recreation,
- (b) to encourage the development of public recreation in a manner which maximises the satisfaction of the community's diverse recreational needs,
- (c) to enable development associated with, ancillary to, or supportive of, public recreational uses, and
- (d) to encourage the development of open space as a major urban landscape element.

2 Description of the Zone

The Public Recreation zone contains land used for both active and passive

recreation. Land in this zone is either owned by the Council, or under the care, control and management of the Council or is in private or public authority ownership and is yet to be acquired by the Council or dedicated to the Council for use for public recreation.

3 Without Development Consent

Exempt development.

Works for the purpose of landscaping, gardening or bush fire hazard reduction.

Development for the purpose of:

utility installations.

4 Only with Development Consent

Development for the purpose of:

advertising structures; boat landing facilities; boat sheds; buildings used for landscaping, gardening or bush fire hazard reduction; car-parking; caretaker's residences; child care centres; communications facilities; community facilities; drainage; educational establishments; environmental facilities; golf courses; kiosks; public buildings; recreation areas; recreation vehicle areas; roads; surf life saving clubs.

5 Prohibited

Any development not included in Item 3 or 4.

Zone 6 (c) Private Recreation

1 Objectives of Zone

The objectives of this zone are to identify and set aside certain private land where private recreation activities are or may be developed.

2 Description of the Zone

The Private Recreation zone contains privately owned land used for recreational purposes such as licensed clubs, caravan parks and the like.

3 Without Development Consent

Exempt development.

Works for the purpose of landscaping, gardening or bush fire hazard reduction.

Development for the purpose of:
utility installations.

4 Only with Development Consent

Development for the purpose of:

advertising structures; boat landing facilities; boat sheds; bowling greens; camping grounds; caravan parks; car-parking; clubs (including licensed premises); communications facilities; drainage; dwelling-houses ancillary to and used in conjunction with another land use permissible in the zone; educational establishments; environmental facilities; golf courses; recreation areas; recreation facilities; refreshment rooms; roads; shops used in conjunction with another land use permissible in the zone; tourist accommodation; tourist facilities.

5 Prohibited

Any development not included in Item 3 or 4.

37 What requirements are there for the acquisition of private land in Zone 6 (a)?

If you own land within Zone No 6 (a), you may request the Council to acquire the land. The request must be in writing. On receipt of the request, the Council must acquire the land unless the land might reasonably be required to be dedicated for use for public recreation.

Part 8 National parks and nature reserves zone

38 What national parks and nature reserves zone applies in this plan?

The following national parks and nature reserves zone applies as identified on the map:

8 (a) National Parks and Nature Reserves

The following development control table gives the objectives of the zone, a description of the zone and of the development that may be carried out without consent or only with consent or that is prohibited in the zone. Development consent must be obtained from the Council.

The Council must not grant development consent if in the opinion of the Council the proposed development is inconsistent with any of the objectives of the zone in which it is intended to be carried out.

Zone No 8 (a) National Parks and Nature Reserves

1 Objectives of Zone

The objectives of this zone are:

- (a) conservation of areas of natural, ecological, scenic, educational, scientific, cultural or historical importance, and
- (b) identification of land under the control of the Director-General of National Parks and Wildlife.

2 Description of the Zone

This zone identifies land administered by the National Parks and Wildlife Service. The zone applies to part of the New England National Park and Aboriginal sites, Nambucca Heads.

3 Without Development Consent

Development authorised by or under the [National Parks and Wildlife Act 1974](#) or any development ancillary or incidental to such development.

4 Only with Development Consent

Nil.

5 Prohibited

Any development not included in Item 3.

Part 9 Classified road reservation zone

39 What classified road reservation zone applies in this plan?

The following classified road reservation zone applies as identified on the map:

9 Classified Road Reservation

The following development control table gives the objectives of the zone, a description of the zone and of the development that may be carried out without consent or only with consent or that is prohibited in the zone. Development consent must be obtained from the Council.

The Council must not grant development consent if in the opinion of the Council the proposed development is inconsistent with any of objectives of the zone in which it is intended to be carried out.

Zone No 9 Classified Road Reservation Zone

1 Objectives of Zone

The objectives of this zone are to identify and protect land intended to be classified for new classified roads or the widening of existing classified roads.

2 Description of the Zone

The zone includes arterial road widening south of Teague Creek, Lower Nambucca.

3 Without Development Consent

Development for the purpose of:

advertising; classified roads; classified road widening; public utility undertakings (other than gas holders or generating works).

Exempt development.

4 Only with Development Consent

Nil.

5 Prohibited

Any development not included in Item 3.

Part 10 Low density tourist zone

40 What tourist zone applies in this plan?

The following tourist zone applies as identified on the map:

10 Low Density Tourist

The following development control table gives the objectives of the zone, a description of the zone and of the development that may be carried out without consent or only with consent or that is prohibited in the zone. Development consent must be obtained from the Council.

The Council must not grant development consent if in the opinion of the Council the proposed development is consistent with any of the objectives of the zone in which it is intended to be carried out.

Zone No 10 Low Density Tourist

1 Objectives of Zone

The objectives of this zone are:

- (a) to permit low density tourist development and uses associated with, ancillary to or supportive of such development which are carried out in a manner that is environmentally acceptable to the surrounding locality,
- (b) to permit uses which are unlikely to place demands on water and sewerage services beyond the level reasonably required for tourist use, and
- (c) to ensure the pattern of development does not prejudice the functions of the Pacific Highway by identifying by means of a development control plan suitably located vehicle access points to the Pacific Highway approved by the Roads and Traffic Authority.

2 Description of the Zone

The Low Density Tourist zone consists of land south of Teague Creek, Lower Nambucca.

3 Without Development Consent

Exempt development.

4 Only with Development Consent

Development for the purpose of:

advertising structures; boarding-houses; cabins; camping grounds; caravan parks; dwelling-houses associated with another land use permitted within this zone; residential flat buildings and medium density housing associated another land use permitted within this zone; general stores; home activities; home occupations; hostels; motels; recreation establishments; recreation facilities; refreshment rooms; tourist accommodation; tourist facilities; utility installations; any other land use which complements, supports or is associated with the objects of this zone.

5 Prohibited

Any development not included in Item 3 or 4.

Part 11 Heritage conservation

41 What controls apply with respect to heritage provisions?

For the purposes of this clause:

demolish a heritage item or a building, work, relic, tree or place within a heritage conservation area means wholly or partly destroy or dismantle the heritage item or building, work, relic, tree or place.

heritage conservation area means land described in Schedule 2 and identified on the map as a “Heritage Conservation Area” and includes buildings, works, relics, trees and places situated on or within that land.

heritage item means a building, work, relic, tree or place (which may or may not be situated on or within land that is a heritage conservation area) described in Schedule 3.

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

potential archaeological site means a site identified in Schedule 4 and includes a site known to the Council to have archaeological potential even if it is not so identified and shown.

relic means any deposit, object or material evidence relating to:

- (a) the use or settlement of the area of Nambucca, not being Aboriginal habitation, which is more than 50 years old, or
- (b) Aboriginal habitation of the area of Nambucca commencing before and continuing after its occupation by persons of European extraction, including human remains.

42 What are the aims in relation to heritage?

The aims of this plan in relation to heritage are:

- (a) to conserve the environmental heritage of the area of Nambucca, and
- (b) to integrate heritage conservation into the planning and development control processes, and
- (c) to provide for public involvement in the conservation of environmental heritage, and
- (d) to ensure that any development does not adversely affect the heritage significance of heritage items and heritage conservation areas and their settings.

43 What provisions apply to protection of heritage items, heritage conservation areas and relics?

- (1) The following development may be carried out only with development consent:

- (a) demolishing, defacing, damaging or moving a heritage item or a building, work, relic, tree or place within a heritage conservation area, or
 - (b) altering a heritage item or building, work or relic within a heritage conservation area by making structural changes to its exterior, or
 - (c) altering a heritage item or building, work or relic within a heritage conservation area by making non-structural changes to the detail, fabric, finish or appearance of its exterior, except changes resulting from any maintenance necessary for its ongoing protective care which does not adversely affect its heritage significance, or
 - (d) moving a relic, or excavating land for the purpose of discovering, exposing or moving a relic, or
 - (e) erecting a building on, or subdividing, land on which a heritage item is located or which is within a heritage conservation area.
- (2) Development consent is not required by this clause if the Council is of the opinion that the proposed development would not adversely affect the heritage significance of the heritage item or heritage conservation area.
- (3) When determining a development application required by this clause, the Council must take into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area.

44 Are heritage applications advertised?

- (1) Sections 84, 85, 86, 87 (1) and 90 of the Act (which provide for the giving of notice, and for the making and consideration of submissions, about proposed development) apply to the demolishing, defacing or damaging of a heritage item or a building, work, relic, tree or place within a heritage conservation area (and to the use of a building or land referred to in clause 47 for a purpose which, but for that clause, would be prohibited by this plan) in the same way as those provisions apply to designated development.
- (2) Before granting development consent to the demolishing, defacing or damaging of a heritage item, the Council must notify the Heritage Council of its intention to do so and take into consideration any comments received from the Heritage Council within 28 days after the notice is sent.

45 What controls apply with respect to development of known or potential archaeological sites?

The Council may grant consent to the carrying out of development on a potential archaeological site that is reasonably likely to have Aboriginal heritage significance only if:

- (a) it has considered an assessment of how the proposed development would affect the conservation of the site and any relic known or reasonably likely to be located at the site prepared in accordance with any guidelines for the time being notified to it by the Director-General of National Parks and Wildlife, and
- (b) it has notified the Director-General of its intention to do so and taken into consideration any comments received from the Director-General within 28 days after the notice was sent, and
- (c) it is satisfied that any necessary consent or permission under the *National Parks and Wildlife Act 1974* has been granted.

46 What controls apply with respect to development in the vicinity of heritage items, heritage conservation areas or potential archaeological sites?

The Council must take into consideration the likely affect of the proposed development on the heritage significance of a heritage item, heritage conservation area or potential archaeological site, and on its setting, when determining an application for consent to carry out development on land in its vicinity.

47 What incentives apply to heritage conservation?

- (1) The Council may grant consent to the use, for any purpose, of a building that is a heritage item or is within a heritage conservation area, or of the land on which the building is erected, even though the use would otherwise be prohibited by this plan, if it is satisfied that:
 - (a) the proposed use would not adversely affect the heritage significance of the item or heritage conservation area or the amenity of the heritage conservation area, and
 - (b) the conservation of the building depends on the granting of the consent.
- (2) When considering an application for consent to erect a building on land on which a heritage item is located or on land within a heritage conservation area, the consent authority may, for the purpose of determining:
 - (a) the floor space ratio, and
 - (b) the number of parking spaces to be provided on the site,exclude the floor space of the building from its calculation of the floor space of the buildings erected on the land, but only if the consent authority is satisfied that the conservation of the building depends on it making the exclusion.

Part 12 Special provisions

48 What restrictions apply to the development of land subject to bush fire hazards?

The Council must not grant consent to the subdivision of land or to the erection of a building on land which is subject to bush fire hazards by reason of the vegetation on the land or on any adjacent land unless, in the opinion of the Council:

- (a) adequate provision is made for access for fire fighting vehicles,
- (b) adequate safeguards are adopted in the form of fire breaks, reserves and fire radiation zones, and
- (c) adequate water supplies are available for fire fighting purposes.

49 What restrictions apply to development of flood prone land?

- (1) Notwithstanding any other provision of this plan, development must not be carried out for the purpose of the erection of a dwelling-house, the carrying out of any landfilling, drainage works or construction of levees, on flood liable land, except with the consent of the Council.
- (2) Notwithstanding subclause (1), consent is not required for:
 - (a) landfill works for the purpose of agriculture (except on any wetland, land within the Environment Protection (Coastal Lands) zone, a floodway or land adjoining a residential zone) which do not:
 - (i) result in finished surface levels being more than 50 centimetres above the natural surface level of the land, or
 - (ii) result in more than 1000m³ of material being deposited over each hectare of land (any subsequent deposition of material which will result in this amount being exceeded will require consent),
 - (b) maintenance of existing drains and landfill works associated with maintaining farm water storage dams and internal vehicle access roads,
 - (c) landfill works associated with excavations licensed under Part 5 of the [Water Act 1912](#) for water storage purposes,
 - (d) landfill or drainage works (outside a floodway) associated with a public utility undertaking, or
 - (e) landfill works associated with (or without) excavations where a permit has been granted under the [Rivers and Foreshores Improvement Act 1948](#).
- (3) The Council may consent to the carrying out of development on flood liable land only if the Council is satisfied that:

- (a) the development would not adversely affect the efficiency, or unduly restrict the capacity, of a floodway to carry and discharge floodwaters,
 - (b) the development would not significantly impede the flow of floodwaters,
 - (c) the development would not significantly increase the level of flooding on any other land in the vicinity,
 - (d) the structure of any building or work, the subject of the application for development consent, is capable of withstanding flooding,
 - (e) the development would not exacerbate the consequences of floodwaters, having regard to erosion, siltation, debris deposit or the destruction of vegetation,
 - (f) the development would not result in risk to life or human safety, to property or to the environment in the event that the land or adjoining land is inundated by floodwaters, and
 - (g) except in the case of residential infill development, there will be access, by means of flood free land, to the site area.
- (4) The Council may consent to the erection of a dwelling-house on flood liable land only if the Council is satisfied that, in addition to the matters contained in subclause (3):
- (a) the land is not within a floodway,
 - (b) the habitable floor level of the dwelling will be located not less than 500 millimetres above the 1 in 100 year flood level, and
 - (c) in the case of other buildings or works, the Council is satisfied that adequate measures have been taken to offset the likely effects of flooding on the dwelling-house.
- (5) Subclause (4) does not apply to extensions, alterations, additions or repairs to or the replacement of existing dwelling-houses provided that those extensions, alterations, additions or repairs or that replacement do not, in the opinion of the Council, increase the likelihood of flood damage.
- (6) Nothing in this clause limits or restricts any requirement to obtain consent to the carrying out of water control measures.
- (7) In considering any application for development consent relating to flood liable land the Council must:
- (a) have regard to the principles and guidelines contained in the Flood Plain Development Manual prepared by NSW Public Works and published in 1986 and the Council's flood policy, and

(b) consult and take into consideration the advice of the Department of Water Resources and the Department of Public Works and Services in relation to delineation of flood liable land and floodways, the height to which floors should be raised and any other flood proofing measures.

(8) Where the Department of Water Resources or the Department of Public Works and Services are unable to give advice pursuant to subclause (7) (b), the Council may refuse to grant a consent required by this clause until it has considered a detailed report from a hydrological engineer delineating the flood liable land and any floodway.

50 What special provisions apply to the temporary use of land?

Notwithstanding any other provision of this plan, the Council may grant consent to the carrying out of development on land for any purpose (not being designated development) for a maximum period of 28 days, whether consecutive or non-consecutive, in any one year.

51 Is development for certain additional purposes permitted on specific land?

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

52 What restrictions apply to Council works, being roads, drainage, recreation areas, car parking etc?

- (1) Nothing in this plan restricts or prohibits or requires the Council to obtain its own consent for development by the Council (or a person acting on behalf of the Council) on land within any zone for the purpose of roads and their structures; car-parking; communication facilities; cycleways; stormwater drainage; recreation areas; buildings used for landscaping; gardening or bush fire hazard reduction; environmental facilities; public amenities (consisting of toilets, shelter sheds, picnic grounds, kiosks and the like); boat sheds; boat landing facilities; signage; utility installations.
- (2) The reference in subclause (1) to development for the purpose of roads includes a reference to the winning of extractive material within the road reserve by the Council for the purpose of road construction works, including road works associated with realignment or widening.

53 What restrictions apply to development near zone boundaries?

- (1) Despite any other provision of this plan, where it is intended to carry out development

on a site that is divided by a zone boundary and the proposed development is prohibited within one of the zones but permitted in the other, the Council may grant consent to the development providing that the development is permitted in the adjoining zone and extends not more than 20 metres into the zone within which it would otherwise be prohibited.

- (2) For the purpose of this clause, **development** does not include subdivision.
- (3) This clause does not operate to permit development in Zone No 7 (a) or Zone No 7 (g) which would otherwise be prohibited.

54 What restrictions apply to development of Aboriginal conservation areas and relics?

- (1) In this clause:

Aboriginal conservation area means an area of special significance with respect to Aboriginal culture, whether containing a relic or not, and includes natural landscape features with mythological or spiritual significance and ceremonial grounds.

- (2) The Council must maintain a register of Aboriginal conservation areas and sites containing Aboriginal relics (as defined in the [National Parks and Wildlife Act 1974](#)) within the area of Nambucca, notified to the Council from time to time by the National Parks and Wildlife Service.
- (3) The Council must give to any owner of land which includes an Aboriginal conservation area or a site containing Aboriginal relics written notice of the inclusion of that Aboriginal conservation area or site in the register, and of the consequence of such inclusion, as provided by this clause, and must send to the National Parks and Wildlife Service a copy of any such notice.
- (4) An Aboriginal conservation area or relic within a site that is included in the register referred to in subclause (2) must not be altered, disturbed, excavated or built on without the consent of the Council granted with the concurrence of the Director-General of National Parks and Wildlife.
- (5) In deciding whether to grant concurrence the Director-General of National Parks and Wildlife must take into consideration the extent to which such concurrence would affect the scientific, cultural, Aboriginal or aesthetic significance of the Aboriginal conservation area or the relic.

55 What general provisions apply to advertising?

- (1) In this clause:

commercial sign means an advertisement not exceeding 1 square metre in area and relates to the commercial or occupational use of the place or premises on which it is affixed.

fascia sign means an advertisement displayed on the fascia or return end of an awning where the structure that carries the advertisement does not project above or below the fascia or return end of the awning to which it is attached.

under awning sign means an advertisement displayed under an awning where the structure that carries the advertisement does not exceed 2.5m in length, 0.5m in depth or 0.4m in width (where the sign is illuminated) or 0.8m in width (where the sign is not illuminated) and is attached at right angles to the building and horizontal to the ground.

- (2) Nothing in this plan prevents the Council from granting consent to advertising:
- (a) on any premises within any Residential zone provided:
 - (i) the advertising only indicates the purpose for which the premises are used, and
 - (ii) the Council is satisfied that the advertising will not interfere with the amenity of the locality, or
 - (b) on land in any Rural, Environment Protection or Recreation zone, if the advertising is directing the travelling public to tourist areas or tourist facilities or relates to the purpose for which the land is used.
- (3) Nothing in this plan prohibits or requires the consent of the Council for advertising, being:
- (a) a sign erected by or on behalf of a public authority for the purpose of providing information or directions to the public,
 - (b) a window sign,
 - (c) a commercial sign displayed for a period not exceeding 60 days (whether consecutive or non-consecutive) in any one year,
 - (d) a single commercial sign in respect of the occupations carried out on the land,
 - (e) a fascia or under awning sign,
 - (f) a real estate sign satisfying the standards of the Real Estate Institute of New South Wales,
 - (g) a bus shelter sign of maximum area of 2m², or
 - (h) any advertising which is not visible from a road, river railway or park.

56 (Repealed)

57 What provisions apply with respect to development adjoining extractive industries?

- (1) This clause applies to land shown shaded on the map and marked “extractive industry buffer”.
- (2) Notwithstanding any other provisions of this plan, a person may carry out development to support human habitation on land to which this clause applies only with the consent of Council.
- (3) The Council must not consent to any development of such land which will support human habitation located within a distance of 500 metres from either the existing or proposed extractive face of the quarry, unless it is satisfied that carrying out the development and quarrying operations will not detrimentally affect one another.
- (4) Before determining an application for development of such land, the Council must notify the Director-General of the Environment Protection Authority of the application and must take into consideration any relevant submission made to the Council by that chief executive within 28 days after the notification.

58 What buffer provisions apply to other land use activities?

- (1) A person must not erect a building or carry out a work for the purpose of an intensive livestock keeping establishment, extractive industry, a sawmill, a stock and saleyard, a junkyard, or a liquid fuel depot, unless adequate provision, to the satisfaction of the Council, has been made for the creation of a buffer area on the land to minimise any potential environmental disturbance within the locality.
- (2) A person must not subdivide land within Zone No 1 (a1) shown inside a broken black line on the map so as to create an allotment if the Council is satisfied that the allotment will be used for a dwelling-house occupied for rural-residential purposes and that dwelling-house is likely to be located less than 150 metres inside the boundary of the broken black line shown on the map unless, in the opinion of the Council, the development will not be adversely affected by the use of adjoining land for agriculture.
- (3) Notwithstanding any other provisions of this plan, a person must not, within a distance of 1000 metres of the Mid Coast Meat Abattoir rendering plant:
 - (a) erect a building or carry out a work for the purpose of a camping ground and caravan park; cluster housing; dual occupancy; a dwelling-house; (other than a dwelling-house on a vacant allotment with a dwelling-house entitlement under this plan); an educational establishment; a group home; home-based child care; a motel; multiple occupancy; a rural workers dwelling-house; tourist accommodation or a tourist facility within Zone 1 (a1) or 1 (a2), or
 - (b) subdivide land less than 10 hectares in area within Zone 1 (a1).

59 What restrictions apply to development on classified roads?

- (1) This clause applies to land:
 - (a) having frontage to a classified road,
 - (b) to which the sole means of vehicular access is from a classified road, or
 - (c) to which there is vehicular access from a road which intersects with a classified road, where the point of access is within 90 metres of the intersection of the road and the classified road.
- (2) The Council must not grant consent to development on land to which this clause applies unless it has made an assessment of:
 - (a) whether the development by its nature or intensity, or the volume and type of traffic likely to be generated, is likely to constitute a traffic hazard or to materially reduce the capacity and efficiency of the classified road to carry traffic,
 - (b) whether the development is of a type that justifies a location in proximity to a classified road,
 - (c) whether the location, standard and design of access points, and on-site arrangements for vehicle movement and parking, ensure that through traffic movements on the classified road will not be impeded, and
 - (d) the extent to which the development might prejudice future improvements or realignment of the classified road, as may be indicated to the Council from time to time by the Roads and Traffic Authority.

60 Acquisition and development of land reserved for classified road

- (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, or
 - (b) the land is not vacant but:
 - (i) the land is included in the five-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 use as a public road.

- (3) A person may, with the consent of the Council and the concurrence of the RTA, carry out development on land within Zone No 9:
 - (a) for a purpose for which development may be carried out on land in an adjoining zone, or
 - (b) for any other purpose which is compatible with development which may be carried out on land in an adjoining zone.
- (4) In deciding whether to grant any such concurrence, 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,
 - (b) the imminence of acquisition,
 - (c) the likely additional cost to the RTA resulting from the carrying out of the proposed development.
- (5) Land acquired under this clause may be developed, with the consent of the Council, for any purpose, until such time as it is required for the purpose for which it was acquired.
- (6) In this clause:

RTA means Roads and Traffic Authority constituted under the [Transport Administration Act 1988](#).

vacant land means land on which, immediately before the day on which a notice under subclause (1) is given, there were no buildings other than fences.

61 What provisions apply to construction of dams?

- (1) A person must not construct a dam on any land to which this plan applies, except with the consent of the Council.
- (2) Despite subclause (1), development consent is not required if the dam is constructed for the purpose of agriculture and for no other purpose.
- (3) A dam is presumed not to be constructed for the purpose of agriculture if extractive material disturbed because of the construction of the dam is removed from the land on which the dam is constructed.

62 Classification and reclassification of public land as community land

The public land described in Schedule 6 is classified, or reclassified, as community land for the purposes of the *Local Government Act 1993*.

62A Classification and reclassification of public land as operational land

- (1) The public land described in Schedule 7 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 7 is land that was classified, or reclassified, as operational land before the application of the amendments made by the *Local Government Amendment (Community Land Management) Act 1998* to section 30 of the *Local Government Act 1993*.
- (3) Land described in Part 2 of Schedule 7:
 - (a) to the extent (if any) that the land is a public reserve, does not cease to be a public reserve, and
 - (b) continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants by which it was affected before its classification, or reclassification, as the case requires, as operational land.
- (4) Land described in Columns 1 and 2 of Part 3 of Schedule 7, to the extent (if any) that it is a public reserve, ceases to be a public reserve on the commencement of the relevant amending plan and, by the operation of that plan, is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land except those specified opposite the land in Column 3 of Part 3 of Schedule 7.
- (5) In this clause, ***the relevant amending plan***, in relation to land described in Part 3 of Schedule 7, means the local environmental plan cited at the end of the description of the land.
- (6) Before the relevant amending plan inserted the description of land into Part 3 of Schedule 7, the Governor approved of subclause (4) applying to the land.

63 What restrictions apply within the Water Supply Protection Buffer, Bowraville?

Notwithstanding any other provisions of this plan, development for the purpose of extractive industry is prohibited for a distance of 2 kilometres upstream of the Nambucca River from the Council's water supply, borefields at Bowraville, as shown by cross hatching on the map and marked "Water Supply Protection Buffer".

64 What provisions apply to development below high water mark?

Despite any other provision of this plan, a person must not carry out development on any

land:

- (a) below high water mark,
 - (b) forming part of the bed of a river, creek, bay, lagoon or other natural watercourse shown uncoloured on the map, or
 - (c) which has been reclaimed,
- without the consent of the consent authority.

65 What services are required for the carrying out of residential development?

The Council must not consent to the carrying out of any residential development on any land unless arrangements satisfactory to the Council have been made for the provision of all-weather vehicle access, water supply, drainage, telephone and electricity services and for the disposal of sewage.

66 Development on land containing potential acid sulfate soils

- (1) **Consent usually required** Notwithstanding any other provision of this plan, a person must not, without the consent of Council, carry out works described in the following table on land of the class or classes specified for those works in that table and shown on the Acid Sulfate Soils Planning Map, except as provided by subclause (4).

Class of land as shown on Acid Sulfate Soils Planning Map

Works

1	Any works
2	Works below natural ground surface Works by which the watertable is likely to be lowered
3	Works beyond 1m below natural ground surface Works by which the watertable is likely to be lowered beyond 1m below natural ground surface
4	Works beyond 2m below natural ground surface Works by which the watertable is likely to be lowered beyond 2m below natural ground surface
5	Works within 500m of adjacent Class 1, 2, 3 or 4 land <u>or</u> situated below 5m AHD whichever is the lesser distance, which are likely to lower the watertable below 1m AHD on adjacent Class 1, 2, 3 or 4 land

- (2) For the purpose of the table to subclause (1), **works** includes:
- (a) any disturbance of more than one tonne of soil (such as occurs in carrying out

agriculture, agriculture-related works, the construction of drains, extractive industries, dredging, the construction of artificial waterbodies (including canals, dams and detention basins) or foundations, or flood mitigation works), or

(b) any other works that are likely to lower the watertable.

(3) Notwithstanding subclause (2) **works** does not include ploughing, scarifying, tilling or deep ripping associated with agriculture on land of classes 3, 4 and 5 or the maintenance of existing dams or drains.

(4) **Exception following preliminary assessment** This clause does not require consent for the carrying out of those works if the land is above 5m Australian Height Datum (AHD) or if:

(a) a copy of a preliminary assessment of the proposed works undertaken in accordance with the *Acid Sulfate Soils Assessment Guidelines* has been given to the Council, and

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

(5) **Considerations for consent authority** The Council must not grant a consent required by this clause unless it has considered:

(a) the adequacy of an acid sulfate soils management plan prepared for the proposed development in accordance with the *Acid Sulfate Soils Assessment Guidelines*, and

(b) the likelihood of the proposed 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 Council having sent that Department a copy of the development application and of the related acid sulfate soils management plan.

(6) **Public authorities not exempted** This clause requires consent for development to be carried out by the Council, county councils or drainage unions despite:

(a) Clause 35 and items 2 and 11 of Schedule 1 to the *Environmental Planning and Assessment Model Provisions 1980*, as adopted by this plan, and

(b) Clause 10 of *State Environmental Planning Policy No 4—Development Without Consent*.

(7) **Special provisions for Council and County Councils** Notwithstanding the provisions of subclause (6), the following types of development may be carried out without consent by the Council or a county council:

- (a) development consisting of emergency work,
- (b) development consisting of routine maintenance,
- (c) development consisting of minor work,

and development ancillary to that development, such as the carrying out of excavation work, the construction of accessways and the provision of power supplies.

- (8) Where the Council or a county council carries out development described in subclause (7) and encounters, or is reasonably likely to encounter, actual acid sulfate soils, the Council or county council must properly deal with those soils in accordance with the *Acid Sulfate Soils Management Guidelines* so as to minimise the actual or potential impact to the environment arising from disturbance of the soils.

- (9) In this Clause:

county council has the meaning as in the *Local Government Act 1993*.

Council works means such works as are owned or controlled by the Council.

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

- (a) because it has been (or is being) damaged by a natural disaster, an accident, an act of vandalism or a like occurrence, or
- (b) because it has ceased to function or suddenly ceased to function adequately,

and includes work reasonably necessary to prevent or limit any further damage or malfunction.

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

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

Schedule 1 Considerations for rural-residential subdivisions

(Clause 16)

- (a) The allotments to be created by the subdivision are to be not less than 0.5 ha in area where connected to reticulated sewer and not less than 1ha in area where not connected to reticulated sewer,
- (b) The design of each allotment to be created must be physically suitable for disposal of effluent; and

adequate facilities must be able to be provided for the supply of water for domestic and fire fighting purposes,

- (c) The proposed development must not create a demand for the unreasonable or uneconomic provision or extension of public amenities or public services, whether by the Council or by another public authority,
- (d) The land to be subdivided must be linked by a bitumen road of at least two lane's width to the nearest urban centre, except where:
 - the subdivision will excise not more than three allotments (which must be contiguous) from land that comprised a single allotment on 1 December 1995 or from land that comprised two or more adjoining or adjacent allotments on that date all of which were then owned by the same person or persons, and
 - the excised allotments and the residue allotment resulting from the subdivision will each have an area of 2ha or more, and
 - the single allotment has not, or the adjoining or adjacent allotments have not, been subdivided since that date otherwise than to excise allotments each having an area of 40ha or more or to alter a boundary pursuant to clause 6 of *State Environmental Planning Policy No 4—Development Without Consent*,
- (e) The design of allotments created by the subdivision is to be compatible with the suitability and capability of the land, as indicated by a report and maps prepared by the Department of Conservation and Land Management entitled "Urban and Rural Residential Capability Survey of the Nambucca Shire—May 1992",
- (f) The allotments created by the subdivision will contain dwelling sites which are not affected by flooding, seasonally high watertable, slopes exceeding 25 per cent or significant vegetation areas,
- (g) The allotments created by the subdivision will include flood free vehicle access,
- (h) The proposed development will not create or increase ribbon development or adversely affect road safety,
- (i) The allotments to be created by subdivision are designed to minimise the risk of damage by bush fires,
- (j) The proposed development will not detract from the existing rural or scenic character of the locality,
- (k) Road and access ways within the development site will be sited and designed to be efficient and practical, having regard to anticipated traffic volumes, while maintaining a rural character and minimising adverse environmental impact,
- (l) The proposed development will maintain, where possible, the existing amount, diversity and form of native vegetation and wildlife habitat areas,
- (m) The proposed development will not have the effect of significantly reducing the long-term agricultural production potential of the subject or adjoining land through fragmentation of prime

agriculture land and/or loss of flood free stock refuge areas,

- (n) The proposed development will not have an adverse effect on sources of extractive material or create or tend to create conflict between the development and existing or potential land use for the purpose of extractive industry,
- (o) The proposed development will not lead to excessive soil erosion or runoff,
- (p) The scientific, cultural or aesthetic significance of any Aboriginal or archaeological sites will not be detrimentally affected by the development,
- (q) The aquatic environment and its water quality will not be detrimentally affected by the development,
- (r) The proposed development will maintain adequate noise attenuation buffers between potential dwelling sites adjoining any railway or highway transport corridor.

Schedule 2 Heritage conservation areas

(Clause 41)

Nambucca North Headland—approximately 12 hectares, located immediately north of the mouth of the Nambucca River, comprising the rock platforms and adjacent rocky cliff section between the mouth of the Nambucca River and the south end of Shelley Beach.

New England National Park (85km east of Armidale).

Schedule 3 Heritage items

(Clause 41)

Macksville

Nambucca Hotel—Corner of Cooper and Wallace Streets, Macksville.

The Star Hotel—River Street, Macksville.

Bowraville

“St James Anglican Church”—19 High Street, Bowraville.

Bowraville Central School—23 High Street, Bowraville.

Police Station and Court House—25 High Street, Bowraville.

Post Office—27 High Street, Bowraville.

Former Council Chambers—29 High Street, Bowraville.

“Sullivans Bowra Hotel”—33 High Street, Bowraville.

Dwelling—34 High Street, Bowraville.

Dwelling—36 High Street, Bowraville.

Dwelling—38 High Street, Bowraville.

Bananacoast Credit Union—39 High Street, Bowraville.

Dwelling—40 High Street, Bowraville.

Dwelling—42 High Street, Bowraville.

Shop—45 High Street, Bowraville.

Shop—45A High Street, Bowraville.

Commercial Building—46 High Street, Bowraville.

Shop—47 High Street, Bowraville.

Scout Hall—48 High Street, Bowraville.

Medical Rooms—49 High Street, Bowraville.

Dwelling—52 High Street, Bowraville.

Fire Station—55 High Street, Bowraville.

Garage/Workshop—56 High Street, Bowraville.

Bowraville Services Club—57-59 High Street, Bowraville.

Shop/dwelling—58A High Street, Bowraville.

Shop—64 High Street, Bowraville.

“Pioneer Community Centre”—70 High Street, Bowraville.

“State Bank”—72 High Street, Bowraville.

“The Remnant Basket”—74 High Street, Bowraville.

“Shop”—80 High Street, Bowraville.

“Grants Hall”—82 High Street, Bowraville.

“Royal Hotel”—84 High Street, Bowraville.

“Museum and Former Presbyterian Church”—86-88B High Street, Bowraville.

“Dwelling”—86C High Street, Bowraville.

“Eliza and Joseph Newman Folk Museum”—86D High Street, Bowraville.

“The Bank”—88 High Street, Bowraville.

Osprey nest sites and land within 100 metres of those sites—Portion 22, Parish of Bowra, Lot 1, DP 258205, Parish of Valley Valley and Portion 189, Parish of Bowra and Crown Reserve, Parish of Congarinni (eastern side of Warrell Creek).

Schedule 4 Potential archaeological site

(Clause 41)

Nambucca Aboriginal Area—approximately 0.4ha, located 8km south-west of Nambucca and comprising Portion 56, Parish of Nambucca.

Schedule 5 Additional uses of land

(Clause 51)

White Albatross Caravan Park (being the land identified as such by a plan Catalogue No MS 4624, a copy of which is deposited in the office of the Council)—conversion of existing dwelling-house into a two storey residential flat building.

Lots 1, 2 and 3, DP 32178, Pacific Highway, Macksville—the erection of a single dwelling-house on the combined area.

Crown land, Part Section 53 (excluding Allotments 1 and 2), Liston and Pilot Streets, Nambucca Heads—tourist accommodation; recreation establishments; recreation facilities and refreshment rooms (but only in conjunction with tourist accommodation, residential flat buildings or cluster housing).

Lot 72, DP 561932, Pacific Highway, Nambucca Heads—erection of motel and ancillary uses subject to compliance with the State Government’s Flood Plain Development Manual published in 1986, a copy of which is deposited in the office of the Council.

Crown land, Lot 1, DP 822827 being part of R63811 (Headland Reserve), Nambucca Heads on which the Headland Caravan Park is situated—caravan park; camping ground; holiday cabins; refreshment rooms.

Lot 26, DP 790194, Faringdon Way and Part Lot 77, DP 832082, containing an area 14.77ha fronting Bellwood Road, Nambucca Heads—cluster housing at the ratio of one dwelling-house per 230m² of site area and the development of a manufactured home estate pursuant to *State Environmental Planning Policy No 36—Manufactured Home Estates*.

Lots 11, 12 and 18, DP 245262, Nursery Road, Macksville—camping ground and caravan park.

Lots 48 and 99, DP 755537, South Arm Road and Adam Lane, Bowraville—recreation and bowling club; golf course; pre-school.

Lot 2, DP 245263, Nursery Road, Macksville—motor showroom (for commercial trucks) as per amended Drawing No DA01A, Diagram 3, dated 18 July 1994, prepared by Gutteridge Haskins and Davey Pty Ltd, Consulting Engineers and Environmental Planners, deposited in the office of the Council.

Lot 6, DP 245595 and Lot 53, DP 825987, Gumma Road, Macksville—industrial shed for the fabrication of water tanks.

Lot 3, DP 842158 and Lot 9, DP 749152, Pacific Highway, Lower Nambucca—motor showroom.

Lot 3, DP 842158 and Lot 9, DP 749152, Pacific Highway, Lower Nambucca—car repair station.

Lot 2, DP 538542, River Street, Macksville—aquaculture.

Lot 1, DP 211284, Greenhills Road, Upper Taylors Arm Village—Intensive livestock keeping (rabbit farming).

Lot 7, DP 791609, Marshall Way, Nambucca Heads—commercial premises.

Schedule 6 Classification and reclassification of public land as community land

(Clause 62)

Schedule 7 Classification and reclassification of public land as operational land

(Clause 62A)

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

Nambucca Heads

Short Street Part Reserve 63695 for Public Recreation

Part 2 Interests not changed

Part 3 Interests changed

Column 1	Column 2	Column 3
Locality	Description	Trusts etc not discharged
Macksville		
Tilly Willy Street	Lot 1, DP 1011698, Tilly Willy Street, Macksville, as shown by distinctive colouring on the map marked " <i>Nambucca Local Environmental Plan 1995 (Amendment No 38)</i> "— <i>Nambucca Local Environmental Plan 1995 (Amendment No 38)</i>	Nil.
Valla Beach		
Max Graham Drive	Lot 21 in DP 853585, as shown edged heavy black on the map marked " <i>Nambucca Local Environmental Plan 1985 (Amendment No 36)</i> "— <i>Nambucca Local Environmental Plan 1995 (Amendment No 36)</i>	Easement to drain sewage. Easement to drain water.