

Grafton Local Environmental Plan 1988

[1988-602]



New South Wales

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

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File last modified 3 March 2006

Grafton Local Environmental Plan 1988



New South Wales

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Grafton Local Environmental Plan 1988



New South Wales

Part 1 Preliminary

1 Name of plan

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

2 Aims, objectives etc

The aims and objectives of the plan are:

- (a) to replace existing local environmental planning instruments which apply to the City of Grafton with a comprehensive local environmental plan which recognises Grafton's role as the regional centre of the Clarence Valley,
- (b) to simplify the general restrictions on development of land by reducing the number of zones into which land within the City of Grafton is divided and to regulate development by development control plans and aims and objectives of zones,
- (c) to define objectives for each of the land use zones adopted by this plan in order to clarify the planning intent of each zone, and
- (d) to provide the basis for the planning and development of Grafton City to the year 2000.

3 Land to which plan applies

This plan applies to the whole of the land within the City of Grafton, as shown on the map, with boundaries as indicated on the map.

4 Relationship to other environmental planning instruments

This plan repeals the following environmental planning instruments:

- (a) *Grafton Planning Scheme Ordinance*,
- (b) Interim Development Orders Nos 1, 4, 5, 6, 8-13, 16, 17, 18, 20 and 22-25—City of Grafton,
- (c) such other local environmental plans and deemed environmental planning

instruments as, immediately before the day this plan took effect, applied to the land to which this plan applies to the extent to which they applied to that land.

5 Definitions

In this plan:

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

Acid Sulfate Soils Assessment Guidelines means the Acid Sulfate Soils Assessment Guidelines, being part of the Acid Sulfate Soil Manual, as published from time to time by the NSW Acid Sulfate Soils Management Advisory Committee and adopted by the Director.

Acid Sulfate Soils Management Guidelines means the Acid Sulfate Soils Management Guidelines, being part of the Acid Sulfate Soil Manual, 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 the map marked “*Grafton Local Environmental Plan 1988 (Amendment No 24)—Acid Sulfate Soils Planning Map*” kept in the office of the Council of the City of Grafton.

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

advertising structure means a structure used principally for the display of an advertisement.

aerodrome means a place or area, open to use by the public, which is licensed by the Commonwealth Department of Transport for use by aircraft, and includes airline terminal buildings and associated facilities.

agriculture and **cultivation** include horticulture and mean the use of land for any purpose of husbandry, including the keeping or breeding of livestock or bees, and the growing of fruit, vegetables, and the like.

ancillary dwelling means a dwelling that is fundamental but subordinate to the operation of a non-residential use.

animal establishment means a building or place used for any one or more of the purposes of intensive animal husbandry or the boarding, training or keeping of animals, birds, fish, crustaceans, insects or the like, generally requiring the importation of feed from sources outside the land on which the development is conducted.

arterial road means any existing road indicated on the map by a broken black band between firm black lines.

brothel means premises habitually used for the purposes of prostitution, whether used by one or more prostitutes.

car park means any building or land, not being part of a dwelling-house or curtilage of a dwelling-house or of a street or road, whether publicly or privately owned, used (whether or not for fee or reward) for the parking of motor vehicles.

caravan park has the same meaning as in the *Caravan Parks and Movable Dwellings Ordinance*.

Clarence Valley Council Development Control Plan No 6—Exempt and Complying Development means *Clarence Valley Council Development Control Plan No 6—Exempt and Complying Development*, as adopted by Clarence Valley Council on 19 July 2005.

cluster development means the erection of more than 1 dwelling-house or residential flat building on a single allotment of land within a residential zone.

community facility means a building or place:

- (a) owned or controlled by the Council, a public authority or a body of persons associated for the physical, social, cultural, economic or intellectual welfare of the local community, and
- (b) used principally to provide community services, such as public libraries, meeting rooms, rest rooms, child care centres and facilities for recreational, cultural or social activities,

whether or not that building or place is used for another purpose, and includes a local community club for persons sharing a like interest but not a registered club.

conservation area means the land edged with diagonal black lines and marked “conservation area” on the map.

Council means the Council of the City of Grafton, and includes Clarence Valley Council.

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

dwelling-house means a building or group of buildings containing 1 but not more than 1 dwelling.

exhibition home means a dwelling-house used for the display and sale of a particular type of dwelling-house similar to that erected on the site.

health care professional means a person who renders professional health care services to members of the public.

holiday cabin means a dwelling-house used, or intended to be used, for the provision of

holiday accommodation only, being one of a group of dwelling-houses erected on an allotment of land, or on 2 or more adjoining allotments of land in the same ownership.

home activity means any activity or pursuit carried on for personal gain in a dwelling-house or a room or a number of rooms forming part of, attached to or within the curtilage of a dwelling-house or in a dwelling in a residential flat building where:

- (a) only goods made or produced therein as a result of the activity or pursuit and goods ancillary thereto are displayed or sold, and
- (b) the activity or pursuit does not:
 - (i) interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products or grit, oil or otherwise,
 - (ii) involve exposure to view from any public place of any unsightly matter,
 - (iii) require the provision of any essential service main of a greater capacity than that available in the locality,
 - (iv) involve the employment of persons other than residents of the dwelling-house or dwelling, or
 - (v) involve the exhibition of any notice, advertisement or sign (other than a notice or sign not exceeding 1.2 metres by 0.6 metres exhibited on that dwelling-house or dwelling to indicate the name and occupation of the resident).

item of the environmental heritage means those buildings, works, relics, trees or places of historic, scientific, cultural, social, architectural, archaeological, natural or aesthetic significance to the City of Grafton described in Schedule 1.

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

professional consulting rooms means a room or number of rooms forming either whole or part of, or attached to or within, the curtilage of a dwelling-house and used by not more than 3 health care professionals who employ not more than 3 employees.

public utility undertaking means any of the following undertakings carried on or permitted or suffered to be carried on by or by authority of any government department or under the authority of or in pursuance of any Commonwealth or State Act:

- (a) railway, road transport, water transport, air transport, wharf or river undertakings,
- (b) undertakings for the supply of water, hydraulic power, electricity or gas or the

provision of sewerage, drainage or waste disposal services,

and a reference to a person carrying on a public utility undertaking shall be construed as including a reference to a council, county council, government department, corporation, firm or authority carrying on the undertaking.

recreation area means:

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

but does not include a racecourse or a showground.

relic means any deposit, object or material evidence relating to the settlement (including Aboriginal habitation) of the area of the City of Grafton which is more than 50 years old.

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

- (a) the making of structural changes to the outside of the building or work, or
- (b) the making of non-structural changes to the fabric or appearance of the outside of the building or work, being the painting of previously unpainted surfaces, plastering of previously unplastered surfaces or the removal of other decorative features.

restaurant means premises, the principal purpose of which is the provision of food and drink to people for consumption on the premises, or the provision of take-away food and drink, or both.

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

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

matter,

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

roadside stall means a building or place where only primary products produced on the property on which the building or place is situated are exposed or offered for sale.

stormwater flooding means inundation resulting from the incapacity of urban stormwater drainage works to handle runoff whether or not flood gates on drains have been closed due to the height of river flooding.

the map means the map marked “*Grafton Local Environmental Plan 1988*”, deposited in the office of the Council, as amended by the maps so deposited and marked as follows:

Editorial note—

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

Grafton Local Environmental Plan 1988 (Amendment No 4)

Grafton Local Environmental Plan 1988 (Amendment No 7)

Grafton Local Environmental Plan 1988 (Amendment No 8)

Grafton Local Environmental Plan 1988 (Amendment No 10)

Grafton Local Environmental Plan 1988 (Amendment No 11)

Grafton Local Environmental Plan 1988 (Amendment No 12)

Grafton Local Environmental Plan 1988 (Amendment No 14) (Sheet No 3)

Grafton Local Environmental Plan 1988 (Amendment No 15)

Grafton Local Environmental Plan 1988 (Amendment No 16)

Grafton Local Environmental Plan 1988 (Amendment No 18)

Grafton Local Environmental Plan 1988 (Amendment No 22)—Sheet 2

Grafton Local Environmental Plan 1988 (Amendment No 23)

Grafton Local Environmental Plan 1988 (Amendment No 27)

Grafton Local Environmental Plan 1988 (Amendment No 28)

Grafton Local Environmental Plan 1988 (Amendment No 29)

Grafton Local Environmental Plan 1988 (Amendment No 31)

Grafton Local Environmental Plan 1988 (Amendment No 34)

Grafton Local Environmental Plan 1988 (Amendment No 37)

Grafton Local Environmental Plan 1988 (Amendment No 38)

6 Adoption of Model Provisions

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

(a) the definitions of **advertisement, advertising structure, agriculture, arterial road, dwelling-house, health care professional, home industry, home occupation, map, motor showroom, professional consulting rooms, refreshment room** and **roadside stalls, tourist facilities** in clause 4 (1), and

(b) clauses 5 (1), (2) and (3), 10, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 26, 28, 29, 30, 32 and 33,

are adopted for the purposes of this plan.

(2) If a definition adopted by subclause (1) is expressed so as not to include a building or place (or a building or place used for a purpose) separately defined in those provisions then, for the purposes of Part 2, the definition does not include a building or place (or a building or place used for a purpose) separately defined in this clause.

7 Consent authority

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

Part 2 General restrictions on development of land

8 Zones indicated on the map

For the purposes of this plan, land shown on the map by the colour and indication specified in Column 1 of the Table to this clause shall be within the zone specified opposite thereto in Column 2 of the Table.

Table

Column 1

Column 2

1 RURAL

(a) Light brown with heavy black edging and lettered "1 (a)" Zone No 1 (a) (Rural Zone)

(b) Light brown with heavy black edging and lettered "1 (b)" Zone No 1 (b) (Rural Small Holdings Zone)

- (c) Light brown with heavy black edging and lettered "1 (c)" Zone No 1 (c) (Rural/Residential Zone)
- (d) Light brown with heavy black edging and lettered "1 (d)" Zone No 1 (d) (Rural (Flood Liable) Zone)
- (e) Light brown with heavy black edging and lettered "1 (e)" Zone No 1 (e) (Urban Investigation Zone)

2 LIVING AREA

- (a) Light scarlet with heavy black edging and lettered "2 (a)" Zone No 2 (a) (Living Area Zone)

3 BUSINESS

- (a) Light blue with heavy black edging and lettered "3 (a)" Zone No 3 (a) (Business Zone)
- (b) Medium blue with heavy black edging and lettered "3 (b)" Zone No 3 (b) Special Development Zone)

4 INDUSTRIAL

- (a) Purple with heavy black edging and lettered "4 (a)" Zone No 4 (a) (Industrial Zone)

5 SPECIAL USES

- (a) Yellow with heavy black edging and lettered "5 (a)" Zone No 5 (a) (Special Uses (Public Purposes) Zone)
- (b) Blue-purple with heavy black edging and lettered "5 (b)" Zone No 5 (b) (Special Uses (Railways) Zone)

6 OPEN SPACE

- (a) Dark green with heavy black edging and lettered "6 (a)" Zone No 6 (a) (Public Recreation Zone)
- (b) Light green with heavy black edging and lettered "6 (b)" Zone No 6 (b) (Recreation (Special Purposes) Zone)

8 NATIONAL PARKS AND NATURE RESERVES

- | | |
|--|--|
| (a) Dark green band with heavy black edging and lettered "8 (a)" | Zone No 8 (a) (National Parks and Nature Reserve Zone) |
|--|--|

9 RESERVATIONS

- | | |
|--|---|
| (a) A broken black band between firm black lines | Zone No 9 (a) (Roads (Proposed Arterial Road Reservation) Zone) |
|--|---|

9 Zone objectives and development control table

- (1) The objectives of a zone are set out in the Table to this clause under the heading "Objectives of zone" appearing in the matter relating to the zone.
- (2) Except as otherwise provided by this plan, in relating to land within a zone specified in the Table to this clause, the purposes (if any):
 - (a) for which development may be carried out without consent,
 - (b) for which development may be carried out only with consent, and
 - (c) for which development is prohibited,are specified under the headings "Without development consent", "Only with development consent" and "Prohibited", respectively, appearing in the matter relating to the zone.
- (3) Except as otherwise provided by this plan, the Council shall not grant consent to the carrying out of development on land to which this plan applies unless it is satisfied that the carrying out of the development is consistent with the objectives of the zone within which the development is proposed to be carried out.

Table

Zone No 1 (a) (Rural Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to enable agricultural activities and uses compatible with agricultural activities to be carried out in rural areas, and
- (b) to control the residential density of rural areas and economic provision of services.

2 Without development consent

Agriculture (other than animal establishments); bushfire hazard reduction;

forestry.

3 Only with development consent

Any purpose other than a purpose specified in item 2 or 4.

4 Prohibited

Advertising structures; boarding-houses; brothels; car repair stations; cluster development; commercial premises; industries (other than extractive or rural industries); motor showrooms; residential flat buildings containing more than 2 dwellings; recreation facilities; restricted premises; shops (other than general stores); warehouses.

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

1 Objectives of zone

The objectives of this zone are:

- (a) to allow for the establishment of small rural holdings and minor compatible uses in suitable areas, and
- (b) to encourage subdivision layout and lot sizes which have regard to the creation of suitable house sites and to providing appropriate area for on-site effluent disposal rather than adherence only to minimum allowable lot sizes.

2 Without development consent

Agriculture (other than animal establishments); bushfire hazard reduction; forestry.

3 Only with development consent

Any purpose other than a purpose specified in item 2 or 4.

4 Prohibited

Advertising structures; boarding-houses; brothels; car repair stations; cluster development; commercial premises; industries (other than extractive or rural industries); motor showrooms; offensive or hazardous industries; residential flat buildings containing more than 2 dwellings; restricted premises; shops (other than general stores); warehouses.

Zone No 1 (c) (Rural/Residential Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to allow development of appropriate land for rural residential lots of a low density,
- (b) to allow for a lifestyle and activities which are not catered for or generally acceptable in urban zones, and
- (c) to encourage subdivision lot sizes that have regard to efficient provision of services, and to the topography of the site, and to the creation of suitable house sites rather than adherence only to minimum allowable lot sizes.

2 Without development consent

Agriculture (other than animal establishments); bushfire hazard reduction; dwelling-houses; forestry.

3 Only with development consent

Any purpose other than a purpose specified in item 2 or 4.

4 Prohibited

Advertising structures; brothels; bulk stores; bus depots; bus stations; car repair stations; commercial premises; gas holders; generating works; helipads; heliports; industries; junk yards; liquid fuel depots; mines; motor showrooms; residential flat buildings containing more than 2 dwellings; restricted premises; roadside stalls; sawmills; shops (other than general stores); stock and sale yards; transport terminals; warehouses.

Zone No 1 (d) (Rural (Flood Liable) Zone)

1 Objectives of zone

The objective of this zone is to recognise the flood liable nature of the land and to encourage only those uses which are compatible with the anticipated flood conditions.

2 Without development consent

Bushfire hazard reduction.

3 Only with development consent

Aerodromes; agriculture; car parks; extractive industries; forestry; helipads; recreation areas; roads; utility installations (other than gas holders or generating works).

4 Prohibited

Any purpose other than a purpose specified in item 2 or 3.

Zone No 1 (e) (Urban Investigation Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to indicate areas for future urban expansion,
- (b) to prevent uses which may frustrate the eventual development of the area for urban expansion,
- (c) to only allow short term use of the area which is consistent with the long term intention for the area to be used for urban purposes, and
- (d) to allow only those uses which will be compatible with the future urban development of the area.

2 Without development consent

Agriculture (other than animal establishments); bushfire hazard reduction; forestry.

3 Only with development consent

Any purpose other than a purpose specified in item 2 or 4.

4 Prohibited

Advertising structures; boarding-houses; brothels; car repair stations; cluster development; commercial premises; industries (other than extractive or rural industries); motor showrooms; residential flat buildings; recreation facilities; restricted premises; shops; warehouses.

Zone No 2 (a) (Living Area Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to designate areas where residential development is the primary land use and where non-residential uses are permitted only when they are compatible and subordinate to the residential character,
- (b) to denote housing densities and types and desired location of allowable land uses whilst maintaining the existing character of those areas by development control plans,
- (c) to allow non-residential uses that can be demonstrated to be compatible with the residential zoning and having regard to public opinion, and
- (d) to provide opportunities for the provision of secure, appropriate and affordable housing in a variety of types and tenures for all income groups within the City of Grafton.

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose specified in item 4.

4 Prohibited

Animal establishments; brothels; bulk stores; bus depots; bus stations; car repair stations; commercial premises; gas holders; generating works; helipads; heliports; industries; junk yards., liquid fuel depots; mines; motor showrooms; restricted premises; sawmills; shops (other than general stores); stock and sale yards; transport terminals; warehouses.

Zone No 3 (a) (Business Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to allow for retail, commercial, high density residential and restricted service and light industrial uses,
- (b) to control land use location and character within the commercial area by development control plans, and

(c) to define the main area for business and commercial activity within the City of Grafton.

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose specified in item 4.

4 Prohibited

Agriculture; animal establishments; brothels; bus depots; cluster development; extractive industries; gas holders; generating works; industries (other than light industries or those ancillary or complementary to commercial premises); junk yards; liquid fuel depots; mines; recreation establishments; road transport terminals; restricted premises; sawmills.

Zone No 3 (b) (Special Development Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to provide for the establishment of service industries which would benefit from being easily accessible to potential customers,
- (b) to provide an opportunity for a mix of commercial and service industry development, compatible with the existing uses in the zone, and
- (c) to establish a business and commercial area catering for a broad range of less intensive business, light industrial and commercial activities.

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose specified in item 4.

4 Prohibited

Aerodromes; airline terminals; brothels; bulk stores; caravan parks; generating works; heliports; hospitals, junk yards, liquid fuel depots; mines; offensive or hazardous industries; recreation establishments; road transport

terminals; sawmills; schools.

Zone No 4 (a) (Industrial Zone)

1 Objectives of zone

The objective of this zone is to provide land for general industrial uses, ancillary retail uses, brothels and service industries unsuited to other areas.

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose specified in item 4.

4 Prohibited

Boarding-houses; caravan parks; commercial premises (other than those used in conjunction with and situated on the same land as an industry or those referred to in Schedule 2); dwelling-houses and residential flat buildings (other than ancillary dwellings situated on the same land as an industry); roadside stalls; shops (other than those referred to in Schedule 2).

Zone No 5 (a) (Special Uses (Public Purposes) Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to designated lands for public purposes, and
- (b) to allow the use of these sites for other community purposes compatible with surrounding areas to allow for increased economical use of community facilities.

2 Without development consent

Nil.

3 Only with development consent

The particular purpose indicated by black lettering on the map or any purpose ordinarily incidental to the indicated purpose; community purposes; utility installations.

4 Prohibited

Any purpose other than a purpose specified in item 3.

Zone No 5 (b) (Special Uses (Railways) Zone)

1 Objectives of zone

The objective of this zone is to identify land required for the provision of railway services.

2 Without development consent

Railway purposes (including any purpose authorised under the [Government Railways Act 1912](#)).

3 Only with development consent

Any purpose other than a purpose specified in item 2 or 4.

4 Prohibited

Brothels.

Zone No 6 (a) (Public Recreation Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to identify land which is used or intended for use for the purposes of open space or public or recreation, and
- (b) to allow for alternative uses of these sites for community purposes compatible with surrounding areas to allow for increased economical use of community facilities.

2 Without development consent

Works for the purposes of landscaping, gardening and bushfire hazard reduction.

3 Only with development consent

Ancillary dwellings; buildings for the purposes of landscaping; community purposes: racecourses; recreation areas; recreation facilities; restaurants; roads; showgrounds; utility installations (other than gas holders or

generating works).

4 Prohibited

Any purpose other than a purpose specified in item 2 or 3.

Zone No 6 (b) (Recreation (Special Purposes) Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to identify land, whether in public or private ownership, which is used for open space or recreational purposes which are generally of a tourist oriented or commercial recreation type of facility, and
- (b) to allow for alternative uses of these sites for community purposes compatible with surrounding areas to allow for increased economical use of community facilities.

2 Without development consent

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

3 Only with development consent

Ancillary dwellings; caravan parks; cemeteries; clubs; community purposes; racecourses; recreation areas; recreation facilities; restaurants; roads; tourist facilities; utility installations (other than gas holders or generating works).

4 Prohibited

Any purpose other than a purpose specified in item 2 or 3.

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

1 Objectives of zone

The objective of this zone is to identify those lands included in national parks, nature reserves, Aboriginal areas and state recreation areas within the meaning of the [National Parks and Wildlife Act 1974](#).

2 Without development consent

Any purpose authorised by or under the [National Parks and Wildlife Act 1974](#).

3 Only with development consent

Nil.

4 Prohibited

Any purpose other than a purpose specified in item 2.

Zone No 9 (a) (Roads (Proposed Arterial Road Reservation) Zone)

1 Objectives of zone

The objective of this zone is to set aside certain land (being land that the Department of Main Roads proposes to acquire) for the purposes of arterial or main roads.

2 Without development consent

Agriculture (other than ancillary dwellings and intensive animal husbandry); arterial roads.

3 Only with development consent

Any purpose other than a purpose specified in item 2 or 4.

4 Prohibited

Brothels.

9A What is exempt and complying development?

- (1) Development of minimal environmental impact listed as exempt development in *Clarence Valley Council Development Control Plan No 6—Exempt and Complying Development* is **exempt development** despite any other provision of this plan.
- (2) Development listed as complying development in *Clarence Valley Council Development Control Plan No 6—Exempt and Complying Development* 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 *Clarence Valley Council Development Control Plan No 6—Exempt and Complying Development*.

- (4) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in *Clarence Valley Council Development Control Plan No 6—Exempt and Complying Development*, as in force when the certificate is issued.

Part 3 Special provisions

10 Subdivision of land generally

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

11 Subdivision in rural Zone No 1 (a), 1 (b), 1 (c), 1 (d) or 1 (e)

- (1) This clause applies to land within Zone No 1 (a), 1 (b), 1 (c), 1 (d) or 1 (e).
- (2) The Council shall not grant consent to the subdivision of land to which this clause applies which creates an allotment having an area of less than:
- (a) in the case of land within Zone No 1 (a), 1 (d) or 1 (e)—10 hectares,
 - (b) in the case of land within Zone No 1 (b)—1.5 hectares, or
 - (c) in the case of land within Zone No 1 (c)—4 000 square metres.
- (3) The Council may consent to the subdivision of land to which this clause applies that does not comply with the requirements of subclause (2) provided that the subdivision is for a purpose permitted in the zone (with the exception of a dwelling-house).
- (4) The Council shall not consent to the creation of an allotment under subclause (3) unless:
- (a) the proposed allotment can be shown to be capable of supporting commercially and independently the proposed use, and
 - (b) the proposed allotment has frontage to an all-weather road with all-weather road access to the nearest commercial centre.
- (5) The Council shall not grant consent to the subdivision of land, to which this clause applies unless the ratio of frontage to depth is to the Council's satisfaction, having regard to the future potential of the land.

12 Subdivision for the purposes of a dwelling-house in Zone No 1 (a), 1 (b), 1 (c) or 1 (e)

- (1) This clause applies to land within Zone No 1 (a), 1 (b), 1 (c) or 1 (e).
- (2) The Council shall not approve of a subdivision creating an allotment (for the purposes of erecting a dwelling-house) with an area of 10 hectares or greater within Zone No 1 (a), 1 (b), 1 (c) or 1 (e) unless:

- (a) the location of the dwelling-house will not affect the future potential of the land and is satisfactory for effluent disposal purposes,
 - (b) if the allotment has frontage to a main road—frontage to that road is not less than 200 metres,
 - (c) there is provision of an adequate water and electricity supply, and
 - (d) the allotment has frontage to an all-weather road with all-weather road access to the nearest commercial centre.
- (3) The Council shall not approve of a subdivision creating an allotment (for the purposes of erecting a dwelling-house) with an area greater than 1.5 hectares and less than 10 hectares within Zone No 1 (b) or 1 (c) unless:
- (a) the location of the dwelling-house will not affect the future potential of the land and is satisfactory for effluent disposal purposes,
 - (b) there is an adequate electricity supply servicing each site,
 - (c) there is a reticulated water system servicing each site,
 - (d) there is no direct access to an arterial or main road, and
 - (e) the allotment has frontage to an all-weather road with all-weather road access to the nearest commercial centre.
- (4) The Council shall not approve of a subdivision creating an allotment (for the purposes of erecting a dwelling-house) on an allotment with an area greater than 4 000 square metres and less than 1.5 hectares within Zone No 1 (c) unless:
- (a) the location of the dwelling-house will not affect the future potential of the land and is satisfactory for effluent disposal purposes,
 - (b) there is a reticulated water system serving each site,
 - (c) there is an adequate electricity supply to each site,
 - (d) there is frontage to a sealed public road with a sealed road access to the nearest commercial centre,
 - (e) there is no direct access to an arterial or main road, and
 - (f) adequate arrangements exist for connection of each allotment to the Council's sewerage system or, where impracticable, alternative effluent disposal is provided to the Council's satisfaction.
- (5) The Council may not approve of the erection of a dwelling-house on an allotment having frontage to a main road and to which access is off that main road unless such

frontage to the main road is at least 200 metres.

13 Dwelling-houses in Zone No 1 (a), 1 (b), 1 (c) or 1 (e)

- (1) This clause applies to land in Zone No 1 (a), 1 (b), 1 (c) or 1 (e).
- (2) The Council shall not approve of the erection of a dwelling-house on an allotment of land to which this clause applies unless that allotment complies with the requirements of clauses 11 and 12.
- (3) Notwithstanding subclause (2), a dwelling-house may be erected with the Council's approval on an allotment of land that was lawfully created or approved by the Council prior to the appointed day and upon which a dwelling-house may have been lawfully erected immediately prior to the appointed day.

14 Ancillary dwellings

The Council shall not consent to an application to erect an ancillary dwelling to be used in conjunction with a purpose to which land may be put unless, in the opinion of the Council:

- (a) the use of the dwelling will be ancillary to the purpose to which the land is put,
- (b) the purpose to which the allotment is put may not be fully realised without the presence on that land of such a dwelling,
- (c) the purpose is lawfully approved and has commenced operation prior to the erection of the dwelling, and
- (d) with regard to agricultural purposes, the Council has consulted with the Director-General of the Department of Agriculture and Fisheries and has taken account of the Director-General's comments.

15 Suspension of certain laws etc

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

16 Community use of facilities on land in Zone No 5 (a), 5 (b), 6 (a) or 6 (b)

- (1) This clause applies to land in Zone No 5 (a), 5 (b), 6 (a), or 6 (b).
- (2) The land to which this clause applies, and any buildings or facilities on that land, may

be used, with the Council's consent, for community purposes, whether or not such use is a commercial use of the land.

16A Additional matters for consideration for development in open space zones

In determining an application for consent to carry out development on land zoned 6 (a) or 6 (b), the Council is to take the following matters into consideration:

- (a) the need for the proposed development on the land,
- (b) the impact of the proposed development on the existing or likely future use and character of the land,
- (c) whether any proposed building will be secondary and complementary to the existing or proposed use of the land as public open space,
- (d) whether the proposal will substantially diminish public use of and access to open space,
- (e) whether the proposal is compatible with adjacent uses in relation to its height, bulk and noise generation and any other aspects that might conflict with surrounding land uses, and
- (f) whether the proposal is consistent with a plan of management applying to the land under Division 2 of Part 2 of Chapter 6 of the [Local Government Act 1993](#).

17 Retailing of bulky goods in Zone No 4 (a)

- (1) This clause applies to land in Zone No 4 (a).
- (2) In this clause, **bulky goods** means large goods which are, in the opinion of the Council, of such a size and shape as to require:
 - (a) a large area for handling, storage or display, and
 - (b) easy and direct vehicular access to enable the goods to be collected by customers after sale.
- (3) Subject to subclauses (4) and (5), nothing in this plan shall prevent a person, with the consent of the Council, from carrying out development for the purposes of the retail sale of bulky goods on land to which this clause applies.
- (4) The Council shall not consent to an application to carry out development referred to in subclause (3) unless it is satisfied that:
 - (a) suitable land for the development is not available in any nearby business centre,
 - (b) to grant consent would not, by reason of the number of retail outlets which exist or are proposed on land within Zone No 4 (a), defeat the predominantly industrial

nature of the zone, and

(c) the proposed development will not detrimentally affect the viability of any business centre.

(5) This clause does not apply to development for the purposes of shops selling food or clothing.

18 Development of land on adjoining boundaries

- (1) This clause applies to land within 50 metres of a boundary between any 2 zones, except Zone No 1 (d) and except if the land is separated from the zone boundary by a road.
- (2) Subject to subclause (3), development may, with the consent of the Council, be carried out on land to which this clause applies for any purpose for which development may be carried out in any adjoining zone, having regard to the development standards that apply within the adjoining zone.
- (3) The Council shall not consent to development referred to in subclause (2) unless, in the opinion of the Council, the carrying out of the development is desirable due to design, ownership, servicing or similar requirements relating to the optimum development of land to which this clause applies.

19 (Repealed)

20 Development of land shown uncoloured on the map

A person shall not carry out development on any land shown uncoloured on the map without the consent of the Council.

21 Flooding

- (1) The objectives of this clause are:
 - (a) to minimise future potential flood damage by ensuring that only flood compatible development occurs on flood liable land, and
 - (b) to minimise the adverse effect of flooding on the community.
- (2) The Council must not grant consent to development on land that, in the Council's opinion, is likely to be subject to flooding unless it has considered the following matters:
 - (a) the extent and nature of the flooding hazard affecting the land,
 - (b) whether the development would increase the risk or severity of flooding of other land in the vicinity,

- (c) whether the risk of severity of flooding affecting the development could be reasonably mitigated,
- (d) the impact of the development on emergency services associated with a flood emergency,
- (e) the provisions of *Development Control Plan No 9—Development Controls in Flood Liable Land*, and any other relevant development control plan containing provisions affecting development on flood liable land, approved by the Council.

22 Development for the purpose of advertisements

- (1) **Advertisements allowed without consent** Development for the purpose of an advertisement described in the Table to this clause may be carried out without development consent, but only in accordance with the conditions (if any) imposed by that Table.
- (2) **Advertisements allowed only with consent** Development for the purpose of an advertisement may be carried out only with consent if it is not permitted without consent and is not prohibited by this clause.
- (3) Despite any other provision of this plan, development may be carried out with consent on any land for the purpose of an advertisement that directs the travelling public to a specific tourist facility or place of scientific, historic or scenic interest, if the Council is satisfied that:
 - (a) the principal purpose of the advertisement is to direct the travelling public to that building or place, and
 - (b) the dimensions and overall size of the advertisement are not larger than would reasonably be required to so direct the travelling public.
- (4) **Certain advertisements prohibited in Rural or Open Space Zones** Development for the purpose of an advertisement on land within a Rural or Open Space zone is prohibited if it is not permitted without consent by subclause (1) or with consent by subclause (3).
- (5) **Advertisements on trailers on public land prohibited** The use of public land to display an advertisement for a commercial purpose on a trailer is prohibited. This subclause does not apply to a trailer attached to a motor vehicle while the vehicle and trailer are otherwise lawfully on the carriageway of a public street.
- (6) **Definitions** In this clause:
 - area** of an advertisement in the form of a sign means:
 - (a) for a sign with only one side occupied by the matter displayed, the area within the outline of that sign, or

(b) for a sign with two sides occupied by the matter displayed, the area within the outline of that sign or, where one side is larger than the other, the area within the outline of the larger side, or

(c) for any other sign, one third of the total surface area of the sign.

tourist facility means an establishment providing holiday accommodation or recreational facilities, or both, on a short-term use basis, and may include:

(a) hotels, motels, bed and breakfast accommodation, serviced apartments, holiday cabins, caravan parks, camping grounds, houseboats, and associated swimming pools, golf courses, tennis courts and marinas, and

(b) restaurants, and

(c) souvenir shops, arts and craft galleries and exhibition centres, and

(d) a club used in conjunction with a recreational facility.

Table Advertisements allowed without consent

Description of advertisement	Conditions to be met
<p>Advertisement within a site being an advertisement which is not visible from outside the site on which it is displayed.</p>	<p>Such an advertisement must not be displayed on an item of environmental heritage or on a site within a conservation area.</p>
<p>Advertisement on a motor vehicle used principally for conveying goods or passengers</p>	<p>Such an advertisement may be displayed only if:</p> <p>(a) the advertisement is an integral part of the vehicle, and</p> <p>(b) the vehicle can be moved lawfully with the advertisement in place, and</p> <p>(c) the vehicle is not standing unattended on public land only for the purpose of displaying the advertisement.</p>

<p>Business identification sign being an advertisement that displays any or all of the following information relating to the place or premises to which it is fixed:</p> <ul style="list-style-type: none"> (a) the identity or a description of the place or premises, (b) the identity or a description of any person residing or carrying on an occupation at the place or premises, (c) particulars of any occupation carried on at the place or premises, (d) such directions or cautions as are usual or necessary relating to the place or premises or any occupation carried on there, (e) particulars or notifications required or permitted to be displayed by or under any State or Commonwealth Act, (f) particulars relating to the goods, commodities or services dealt with or provided at the place or premises, (g) particulars of any activities held or to be held at the place or premises, (h) a reference to an affiliation with a trade, professional or other association relevant to the business conducted at the place or premises. 	<p>When displayed within Zone No 2 (a), such a sign:</p> <ul style="list-style-type: none"> (a) must not be displayed on an item of environmental heritage, and (b) must not exceed 0.75 square metres in area. <p>When displayed within Zone No 3 (a) or 3 (b), such a sign must not be displayed on an item of environmental heritage and:</p> <ul style="list-style-type: none"> (a) if there is no awning on the premises, there may be one or more such signs, but none is to extend more than 4.6 metres above ground level or above the level of the bottom of the first floor window (whichever is lower) and not more than 50% of the area of a shopfront is to be covered by such signs, or (b) if there is an awning attached to the premises, there may be: <ul style="list-style-type: none"> one or more such signs below the level of the awning, and not more than one such sign on an awning, and not more than one suspended under-awning sign or projecting wall sign for each 3 metres of the length of a shopfront, each of which must not exceed 2.5 metres in length or 0.5 metres in height and no part of which is to be less than 2.6 metres above ground level. <p>When displayed within Zone No 4 (a), such a sign is not to exceed 10 square metres in area, except when displayed for small shops and other premises (such as banks) that serve the daily needs of persons living or employed within the industrial area. When displayed pursuant to this exception, the conditions for the display of such a sign applying to land within Zone No 4 (a) apply. Such a sign must not be displayed without consent on any other land.</p>
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<p>Advertisement displaying a message changed from that displayed by a previously lawful advertisement.</p>	<p>Such an advertisement may be displayed within any zone.</p>
<p>Public notice being a notice for public information displayed by a public authority giving information or direction about services provided</p>	<p>Such a notice may be displayed within any zone.</p>
<p>Real estate sign being an advertisement that contains only a notice that the place or premises to which it is fixed is or are for sale or letting (together with particulars of the sale or letting) and that is not displayed for more than 14 days after the letting or completion of the sale.</p>	<p>Such a sign may be displayed within any zone. Such a sign relating to the letting or the sale by private treaty or auction of residential or rural premises: (a) must not exceed 2.5 square metres in area, and (b) must not have any returns exceeding 180 millimetres. Such a sign relating to commercial or industrial premises must not exceed 4.5 square metres in area.</p>
<p>Sign behind the glass line of a shop window</p>	<p>Such a sign may be displayed within any zone.</p>
<p>Temporary sign being an advertisement of a temporary nature that: (a) announces any event of local importance only of a religious, educational, cultural, political, social or recreational character or relates to any temporary matter in connection with such an event, and (b) does not include advertising of a commercial nature (except for name or names of the sponsor or sponsors of an event). Temporary signs may consist of advertisements in the form of banners, bunting, posters, inflatable structures and similar things.</p>	<p>Such a sign may be displayed within any zone. Such a sign: (a) must not be displayed earlier than 28 days before the event to which it relates is to take place, (b) must be removed within 14 after that event.</p>

23 Dual occupancy

(1) This clause applies to land in Zone No 1 (a), 1 (b), 1 (c) or 2 (a).

- (2) If development for the purposes of a dwelling-house may be carried out on an allotment of land to which this plan applies, a person may, with the consent of the Council, on land to which this clause applies:
 - (a) if there is an existing dwelling-house, erect a second dwelling-house or alter or add to the existing dwelling-house so as to create 2 dwellings, or
 - (b) if there is not a dwelling-house, erect 2 dwelling-houses whether attached or not, so as to create 2 dwellings which comply with the provisions of this clause.
- (3) Development on land to which this clause applies shall only be carried out if the second dwelling does not have a floor space area exceeding 50 square metres.
- (4) The area occupied by a garage or carport shall not be taken into account when calculating floor space area.
- (5) The provisions of this plan relating to residential flat buildings do not apply to a dwelling-house erected, altered or added to, or proposed to be erected, altered or added to, pursuant to this clause.
- (6) In the case of development for the purposes of detached dwelling-houses to be carried out in Zone No 1 (a), 1 (b) or 1 (c), development shall not be carried out in accordance with this clause unless each dwelling to be erected or created:
 - (a) is located in close proximity to the other,
 - (b) shares vehicular access to a sealed road fronting the land, and
 - (c) is serviced by reticulated water.
- (7) Where development is carried out on land under this clause, the Council shall not issue a certificate of approval of a proposed strata plan (within the meaning of the [Strata Titles Act 1973](#)) in respect of that land.

24 Provision of services

- (1) The Council shall not approve of development in Zone No 2 (a), 3 (b), 4 (a), 5 (a), 5 (b), 6 (a) or 6 (b) unless reticulated water, sewerage and electricity services are provided, except where provision of those services is considered impracticable or unnecessary by the Council.
- (2) Notwithstanding subclause (1), the Council may not approve of a development application for the purposes of a caravan park unless it is serviced by reticulated water and sewerage services.

25 Acquisition of land

- (1) This clause applies to land in Zone No 6 (a) or 9 (a).

- (2) The owner of any land within a zone specified in Column 1 of the Table to this subclause may, by notice in writing, require the public authority specified in Column 2 of the Table opposite that zone to acquire that land.

Column 1	Column 2
Zone No 6 (a) (Public Recreation Zone)	Council
Zone No 9 (a) (Roads (Proposed Arterial Road Reservation) Zone)	Commissioner for Main Roads

- (3) Upon receipt of a notice referred to in subclause (2), the public authority concerned shall, subject to subclause (4), acquire that land.
- (4) The Council shall only be required to acquire the land, the subject of a notice referred to in subclause (2), if the land is not required to be dedicated to the Council as a condition of an existing development consent or subdivision approval.

26 Use of land pending acquisition

- (1) Land to which clause 25 applies may be developed for any purpose, with the consent of the Council, prior to its acquisition by the public authority concerned.
- (2) The Council shall not grant consent to development referred to in subclause (1) on land within Zone No 9 (a) unless it obtains the concurrence of the Commissioner for Main Roads.
- (3) In determining whether to grant concurrence under subclause (2), the Commissioner for Main Roads shall take into consideration:
- (a) the effect of the proposed development on the costs of acquisition,
 - (b) the costs of reinstatement of the land for the purposes for which the land is to be acquired, and
 - (c) the imminence of acquisition.

27 Development along arterial roads

A person shall not carry out development for any purpose (other than a purpose specified in Schedule 3) on land within Zone No 1 (a), 1 (b), 1 (c), 1 (d) or 1 (e) which is within 200 metres of an arterial road if any form of direct vehicular access is gained from that road.

28 Items of the environmental heritage

- (1) A person shall not, in respect of a building, work, tree, relic or place that is an item of the environmental heritage:
- (a) demolish, renovate or extend any such building or work,

- (b) damage or despoil any such tree or relic, or any part of any such tree or relic,
 - (c) excavate any land for the purpose of exposing or removing any such relic,
 - (d) erect a building on the land on which that building, work or relic is situated, or the land which comprises that place, or
 - (e) subdivide the land on which that building, work or relic is situated or the land which comprises that place,
- except with the consent of the Council.

- (2) Notwithstanding subclause (1), development consent shall not be required for:
- (a) routine lopping and maintenance of trees specified in Schedule 1, and
 - (b) removal of those trees for reasons of public safety.

29 Conservation area

- (1) A person shall not, in respect of a conservation area:
- (a) demolish, extend or renovate a building or work within that area,
 - (b) damage or despoil a tree or relic or part of a tree or relic within that area,
 - (c) excavate any land for the purpose of exposing or removing a relic within that area,
 - (d) erect a building within that area, or
 - (e) subdivide land within that area,
- except with the consent of the Council.
- (2) Notwithstanding subclause (1), development consent shall not be required for:
- (a) routine lopping and maintenance of trees in a conservation area, and
 - (b) removal of those trees for reasons of public safety.
- (3) In this clause, **tree**, does not include the species *Cinnamomum Camphora* (Camphor Laurel).

30 Conservation incentive relating to heritage items

- (1) Nothing in this plan prevents the Council from granting consent to:
- (a) the use, for any purpose, of a building within a conservation area or of the land on which that building is erected, or
 - (b) the use, for any purpose, of a building that is an item of the environmental heritage or of the land on which that building is erected,

if the Council is satisfied that:

(c) the use would have little or no adverse effect on the amenity of the area, and

(d) conservation of the building depends on the Council granting consent in pursuance of this subclause.

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

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

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

but only if the Council is satisfied that the conservation of the building depends upon the Council granting consent in pursuance of this subclause.

31 Heritage Council to be given prior notice of demolition consent

(1) Where a person makes a development application to demolish a building or work which is an item of the environmental heritage or which is situated within a conservation area, the Council shall not consent to that application until 30 days after the Council has notified the Secretary of the Heritage Council.

(2) Subclause (1) does not apply to the partial demolition of a building or work if, in the opinion of the Council, the partial demolition is of a minor nature and does not adversely affect the significance of the building or work as part of the environmental heritage of the City of Grafton.

32 Advertising of heritage applications

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

(a) the demolition of a building or work within a conservation area,

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

(c) the use of a building or land referred to in clause 30 (1) for a purpose which, but for that subclause, would be prohibited under this plan, in the same way as those provisions apply to and in respect of designated development.

(2) Subclause (1) does not apply to the partial demolition of a building or work if, in the opinion of the Council, the partial demolition is of a minor nature and does not adversely affect the significance of the building or work as part of the environmental

heritage of the City of Grafton.

33 Temporary use of land

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

34 Animal establishments within Zone No 2 (a) at North Grafton

- (1) This clause applies to land at North Grafton being land north of the Clarence River within Zone No 2 (a).
- (2) Despite clause 9, the Council may grant consent to the carrying out of development on land to which this clause applies for the purposes of animal establishments.
- (3) The Council may not grant consent to an application to carry out development referred to in subclause (2) unless:
 - (a) it is satisfied that the development will not conflict with the objectives of Zone No 2 (a), and
 - (b) the proposed development has been advertised for public comment in accordance with clause 19.

35 Development of certain land at Arthur Street, Grafton

- (1) This clause applies to land, being Lot 3, DP 746578, Arthur Street, Grafton, as shown edged heavy black on the map marked "*Grafton Local Environmental Plan 1988 (Amendment No 3)*" deposited in the office of the Council.
- (2) Despite any other provision of this plan, the Council may consent to the carrying out of development in respect of the land to which this clause applies for the purposes of aged persons housing.

36 Development for certain additional purposes

- (1) Nothing in this plan prevents a person, with the consent of the Council, from carrying out development on land referred to in Schedule 4 for a purpose specified in relation to that land in that Schedule, subject to such conditions, if any, as are so specified.
- (2) Subclause (1) does not affect the application to or in respect of development to which that subclause applies of such of the provisions of this plan as are not inconsistent with that subclause or with a consent granted by the Council in respect of the development.

37 Land in Powell Street, Grafton—restriction on residential development

- (1) This clause applies to land being Lot 1, DP 774024, Section 111, and to an extension of Breimba Street, Grafton, as shown by distinctive colouring, edging and lettering on the map marked “*Grafton Local Environmental Plan 1988 (Amendment No 11)*” deposited in the office of the Council.
- (2) A person must not, on land to which this clause applies, carry out residential development to the east of the crest (as determined for the time being by the Council) of the levee situated on that land.

38 Classification and reclassification of public land as operational land

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

38A 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*.

39 Land at the corner of Bent and Ryan Streets—restriction on development

- (1) This clause applies to land being Lots 10, 11 and 12, DP 758914, corner Bent and Ryan Streets, South Grafton, as shown by distinctive colouring and edged heavy black on the map marked “*Grafton Local Environmental Plan 1988 (Amendment No 23)*” deposited in the office of the Council.
- (2) Consent must not be granted for development on land to which this clause applies unless the Council is satisfied that there will not be an adverse impact on local drainage or flooding characteristics.

40 Development on land identified on Acid Sulfate Soils Planning Map

- (1) **Consent usually required** A person must not, without the consent of the Council, carry out works described in the following table on land of the class specified for those works, except as provided by subclauses (3), (6) and (8).

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

- (2) For the purposes of the table to subclause (1), **works** include:
 - (a) any disturbance of more than one (1) tonne of soil including but not limited to agriculture, the construction or maintenance 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 including but not limited to new drainage work or deepening of existing drains, use of groundwater (including ground bores, wells and ground dewatering), dewatering of dams, wetlands or quarries, dredging works lowering the bed of a river, or the like.

- (3) **Exception following preliminary assessment** This clause does not require consent for the carrying out of those works if:
- (a) a copy of a preliminary assessment of the proposed works undertaken in accordance with the Acid Sulfate Soils Assessment Guidelines has been given to the Council, and
 - (b) the Council has provided written advice to the person proposing to carry out 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.
- (4) **Considerations for consent authority** The council must not grant development 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.
- (5) **Public authorities not exempted** This clause requires consent for development to be carried out by councils, county councils or drainage unions despite:
- (a) clause 35 and items 2 and 11 of Schedule 1 to the *Environmental Planning and Assessment Model Provisions 1980*, as adopted by Clause 6 of this Plan, and
 - (b) clause 10 of *State Environmental Planning Policy No 4—Development Without Consent*.
- (6) **Special provisions for Council and county councils** Notwithstanding the provisions of subclause (5), the following types of development may be carried out without consent by the Council or a county council:
- (a) development consisting of emergency work,
 - (b) development consisting of routine maintenance, and
 - (c) development consisting of minor work,
- and development ancillary to that development, such as the carrying out of excavation work, the construction of accessways and the provision of power supplies.
- (7) Where the Council or a county council carries out development described in subclause (6) and encounters, or is reasonably likely to encounter, acid sulfate soils, the Council

or county council shall properly deal with those soils in accordance with the Acid Sulfate Soils Management Guidelines so as to minimise the actual or potential impact to the environment arising from disturbance of the soils.

- (8) **Special provisions for works for the purpose of agriculture** Subclause (1) does not apply to works carried out on land shown as Class 1, 2, 3, 4 or 5 on the Acid Sulfate Soils Planning Map for the purpose of agriculture (including but not limited to drains, land levelling, dams, road works, or the like) provided that:
- (a) a Production Area Entitlement with the NSW Sugar Milling Cooperative Ltd applies to the land at the time of carrying out the works,
 - (b) the works are carried out in accordance with a drainage management plan lodged with and endorsed by the NSW Sugar Milling Cooperative Ltd,
 - (c) the drainage management plan has been prepared in accordance with the NSW Sugar Industry Best Practice Guidelines and a copy of the drainage management plan has been lodged with Council's Director of Planning and Environmental Services,
 - (d) the NSW Sugar Industry Best Practice Guidelines have been approved by the Director-General of the Department of Urban Affairs and Planning in consultation with the Acid Sulfate Soils Management Advisory Committee and the Department of Agriculture and have been adopted by Council,
 - (e) the works are not carried out in respect of any drain under the control of a county council,
 - (f) Council's Director of Planning and Environmental Services has been notified, in writing, of proposed works at least 7 days prior to commencement of those works,
 - (g) Council's Director of Planning and Environmental Services has not issued any notice requiring that the works cease or that development consent be obtained prior to the carrying out of works, and
 - (h) an annual audit of drainage management plans and works referred to in this subclause is carried out to the satisfaction of Council's Director of Planning and Environmental Services.

- (9) In this clause:

county council has the meaning as in the [Local Government Act 1993](#).

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

- (a) because it has been (or is being) damaged by a natural disaster, an accident, an act of vandalism or a like occurrence, or

(b) because it has ceased to function or suddenly ceased to function adequately, and includes work reasonably necessary to prevent or limit any further damage or malfunction.

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.

41 Land in Kirchner Street, Grafton—restrictions on development

- (1) This clause applies to land being Lot 12 DP 849490, Kirchner Street, Grafton as shown by distinctive colouring and edged heavy black on the map marked "*Grafton Local Environmental Plan 1988 (Amendment No 27)*" deposited in the office of the Council.
- (2) Consent must not be granted for development on land to which this clause applies unless the Council is satisfied that:
 - (a) the land does not contain chemical residues in soil exceeding the acceptable thresholds for residential habitation of that land, and
 - (b) a continuous corridor of land at least 50 metres wide has been identified for use for the general public to gain access across the subject land to the Clarence River, and
 - (c) arrangements are in place to revegetate that corridor of land with suitable endemic riparian vegetation, and
 - (d) any residential development will be located at least 400 metres from any sewage treatment works.

42 Land in North Street, Grafton—restrictions on development

- (1) This clause applies to land being Lot 46 DP 751371 and Lots 1 and 2 DP 799823, 362 North Street, Grafton, as shown by distinctive colouring and edged heavy black on the map marked "*Grafton Local Environmental Plan 1988 (Amendment No 28)*" deposited in the office of the Council.
- (2) Consent must not be granted for development of land to which this clause applies unless the Council is satisfied that:
 - (a) the land does not contain chemical residues in soil exceeding the acceptable thresholds for residential habitation of that land, and

- (b) any dwelling-houses on the land will be located no closer than 20 metres to the boundary of the land where it adjoins the Carr Street road reserve and that the use of land within the 20 metre setback will be compatible with the use of adjacent agricultural land, and
- (c) stormwater generated by residential development on the land will be managed and treated on-site to limit the impacts of flow and pollutants on the local and downstream environment to pre-development levels consistent with the Stormwater Management Plan adopted by the Council, and
- (d) the potential for dust nuisance from nearby unsealed roads will be mitigated.

43 Land in Clarence and Hoof Streets, Grafton—restrictions on development

- (1) This clause applies to land being Lot 2, DP 1020592, Lot 60, DP 1037049, part of Lot 5, DP 1035702 and parts of Lots 1-4, DP 871488, Clarence and Hoof Streets, Grafton, as shown by distinctive colouring and edged heavy black on the map marked "*Grafton Local Environmental Plan 1988 (Amendment No 29)*" deposited in the office of the Council of the City of Grafton.
- (2) Consent must not be granted for development on land to which this clause applies unless:
 - (a) the Council is satisfied that:
 - (i) the land does not contain chemical residues in soil exceeding the acceptable thresholds for residential habitation of that land, and
 - (ii) stormwater generated by residential development on the land will be managed and treated to limit impacts of flow and pollutants on the local and downstream environment to pre-development levels consistent with the Council's Stormwater Management Plan as adopted in March 2000, and
 - (iii) arrangements are in place to revegetate land associated with stormwater management with suitable endemic vegetation, and
 - (iv) filling or regrading works do not reduce the area below RL 4.2m AHD available for storage of stormwater flooding as existed during March 1974, and
 - (v) arrangements are in place for any levee relocation work to be completed to the satisfaction of the Clarence River County Council, and
 - (b) the Council has considered whether any land required for stormwater management needs to be acquired by the Council by dedication or otherwise.

44 Land in Crown Street, Grafton—restriction on development

- (1) This clause applies to land being part of Lot 292, DP 739341, Crown Street, Grafton,

as shown edged heavy black on the map marked “*Grafton Local Environmental Plan 1988 (Amendment No 38)*” deposited in the office of the Council.

- (2) Consent must not be granted for development on land to which this clause applies unless the Council is satisfied that filling or regrading works do not reduce the area below RL 4.2 m AHD available for storage of stormwater flooding as existed during March 1974.

Schedule 1 Items of the environmental heritage

(Clause 5)

Grafton Civic Precinct Conservation Area

Post Office Grafton, Victoria Street
Grafton Courthouse, Victoria Street
Big River Tourist Association Office, Victoria Street
Former Courthouse, Victoria Street
Police Residence, Duke Street
Fitzgerald Building, Victoria Street
Foott, Law & Co. Office, Victoria Street
Post Office Hotel, Victoria Street

Grafton Christ Church Cathedral Conservation Area

Christ Church Cathedral
Christ Church Hall
Christ Church Deanery
Christ Church Victorian Cottage
Christ Church Georgian Cottage

South Grafton Skinner Street Conservation Area

H. L. Ada’s Chemist, 27 Skinner Street
Michelle’s Hairdressers, 29 Skinner Street
South Grafton Supa Save, 33 Skinner Street
Westpac, 35 Skinner Street
Central Hardware, 39 Skinner Street
Post Office Hotel (South Grafton), 75 Skinner Street
School of Arts, Skinner Street
Post Office South Grafton, Skinner Street
Walker’s Marina Hotel, 90 Through Street
Trevor & Enid McKew’s, 45 Skinner Street

Western Residential Precinct

“Arcola”, 150 Victoria Street
“Istria”, 95 Victoria Street
“Prentice House”, 158 Fitzroy Street
“Abborsford”, 11 Alice Street
“Bronte”, 13 Alice Street
“Schaeffer House” (Clarence River Historical Society), 192 Fitzroy Street

"Argyll", 170 Fitzroy Street
"Ulverstone", 197 Fitzroy Street
"Verona", 213 Fitzroy Street
Residence, 13 Mary Street
Residence, 137 Victoria Street

Racecourse Precinct

"Telarah", 289 Oliver Street
"Rosslyn", 137 Alice Street

Grafton Commercial Area

National Australia Bank, 39 Prince Street
Northern Rivers Electricity, corner Prince and Victoria Streets
Clock Tower, intersection Prince and Pound Streets

Grafton General

Grafton Gaol, Hoof Street
St Andrew's Presbyterian Church, Oliver Street
Grafton Teacher's Centre, 97 Mary Street
Semi-detached Cottage, 58-60 Queen Street
Methodist Parsonage, 133 Fry Street
Residence, 99 Oliver Street
"Dovedale", 8 Breimba Street
Semi-detached Cottages, 30-32 Villiers Street
Grafton Rail and Road Bridge
Plane Trees, Plane Tree Avenue, Fisher Park
The Barn, Grafton Showground

South Grafton General

St Patrick's Church (3rd), Skinner Street
"South Grafton Municipal Council Chambers", Spring Street
"Clarence House", Through Street

Other Trees

Species of tree within the genera *Brachychiton*, *Ficus* or *Jacaranda* located in any road reserve and being more than 3 metres in height.

Schedule 2

(Clause 9)

Hairdressing salon

Newsagency

Shops used for the sale of:

hardware;

medical and surgical supplies and equipment;

small goods and sandwiches.

Other premises used for:

banking facilities

accounting and computing facilities

restaurants.

Any other use which closely resembles a use identified above.

Schedule 3

(Clause 27)

Advertising structures

Agriculture

Dwelling-houses

Farm structures

Forestry

Public utility undertakings

Service stations

Schedule 4 Development for certain additional purposes

(Clause 36)

Lot 291, DP 739341, Crown Street, Grafton—one ancillary dwelling, subject to the main habitable floor level being no lower than 6.4 metres AHD, any lower floor level being a minimum of 350 mm above the 1-in-100-year ponding level at the site as determined by the Council, and no excision of the land on which the dwelling is located from the remainder of the subject land.

Lot 4, DP 234318, and Lot 1, DP 716909, Corner Minden and Vere Streets, South Grafton—one dwelling, subject to the main habitable floor level being no lower than 8.5 metres AHD and the dwelling not being enclosed below that level except for the purposes of garage and laundry facilities and the entry having a maximum enclosed area of 40 square metres.

Lots 10 and 11, Section 16, Bent Street, South Grafton—motor showroom, subject to the provisions of sections 84, 85, 86, 87 (1) and 90 of the Act being applied to an in respect of:

- (a) any replacement of the building that was situated on the land when *Grafton Local Environmental Plan 1988 (Amendment No 7)* commenced, and
- (b) any extension to the building so situated that, in the Council's opinion is a substantial extension, in the same way as those provisions apply to and in respect of designated development.

Lot 1, DP 560297, corner of Vere and Cowan Streets, South Grafton, as shown edged heavy black on the map marked "*Grafton Local Environmental Plan 1988 (Amendment No 9)*" deposited in the office of the Council—hangar for the repair and servicing of aircraft.

Lots 1-5, DP 19244, Dobie Street, Grafton—retailing of building materials and ancillary products and the erection of one dwelling, subject to the dwelling having a lower ground floor level of 350mm above the assessed 1-in-100-year ponding level at the site, and there being only one vehicular egress point to Dobie Street but no vehicular ingress off Dobie Street.

Lot 259, DP 751385, Cnr Iolanthe Street and the Pacific Highway, South Grafton—a highway service centre including restaurants, service stations, and other highway related activities, subject to the Council not granting development consent until after completion of the Heber Street Flood Levee, with the completion date as advised by the Clarence River County Council, and subject to access to the site being from Iolanthe Street only with access from the Pacific Highway being prohibited.

Lots 18 and 19, DP 19244, Smith Street, Grafton—parking of trucks, trailers, and prime movers and the loading and unloading of those vehicles, subject to those uses being undertaken in conjunction with the operation of a road transport terminal on Lots 5 and 6, DP 341937 and Lots 7 and 8, DP 225379, Duke Street, Grafton.

Lot 17, DP 19244, Smith Street, Grafton—storage of goods and pallets, subject to that use being undertaken in conjunction with the operation of a road transport terminal on Lots 5 and 6, DP 341937 and Lots 7 and 8, DP 225379, Duke Street, Grafton.

Part Lot 346, DP 751385, Lot 347, DP 751385 and Part Reserve 83443, Pacific Highway, South Grafton, as shown edged heavy black on Sheet 1 of the map marked “*Grafton Local Environmental Plan 1988 (Amendment No 22)*” deposited in the office of the Council—highway related uses, including service stations, restaurants, tourist facilities and the like, subject to the Council being satisfied that the development will not have a significant adverse impact on local drainage and subject to there being a single entrance to the whole of the site and a separate single exit from it.

Lot 4, DP 586649, Charles Street, South Grafton—bus station.

Lot 21, DP 1059688, Pacific Highway and part of Through Street, South Grafton, as shown edged heavy black on the map marked “*Grafton Local Environmental Plan 1988 (Amendment No 39)*” deposited in the office of the Council—warehouse retailing hardware and building supplies and ancillary products, subject to the Council being satisfied that:

- (a) appropriate traffic management is provided at the intersection of Bent and Spring Streets, South Grafton, and
- (b) appropriate realignment of the local road network is undertaken at the intersection of Spring and Iolanthe Streets, South Grafton.

Schedule 5 Classification and reclassification of public land as operational land

(Clause 38)

Part 1 Land classified, or reclassified, under original section 30 of Local Government Act 1993

Lot 3 DP 746578 No 206 Arthur St, Grafton
Lot 657 DP 253160 No 4 Peppermint Pl, South Grafton
Lot 1 DP 586179 Prince/Arthur Sts, Grafton
Lot 2 DP 839420 Spring/Charles Sts, South Grafton
Lot 1 DP 839420 Spring/Charles Sts, South Grafton
Section 135, Ph Great Marlow, Villiers St, Grafton
Reserve 82563, Armidale St, South Grafton

Lot 21 DP 712604 Powell St, Grafton
Reserve 51306, Bent St, South Grafton

**Part 2 Land classified, or reclassified, under amended section 30 of
Local Government Act 1993—interests not changed**

Locality	Description
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**Part 3 Land classified, or reclassified, under amended section 30 of
Local Government Act 1993—interests changed**

Column 1	Column 2	Column 3
Locality	Description	Trusts etc not discharged
Grafton	Duke Street Central Car Park, being Lot 11, DP 1027121, Lot 12, DP 391707, Lots 7B, 8 and 9B, DP 17579, Part Lot 8 in Conveyance No 170 Book 2677, Part Lot 8 in Conveyance No 958 Book 3069, Part Lot 9 in Conveyance No 146 Book 2716, Part Lot 9 in Conveyance No 306 Book 2838 and Part Lot 9 in Conveyance No 925 Book 2939, as shown edged heavy black on the map marked " <i>Grafton Local Environmental Plan 1988 (Amendment No 35)</i> " deposited in the office of the Council.	Rights of way reserved in Conveyances No 681 Book 316, No 679 Book 316, No 183 Book 420, No 540 Book 1003, No 496 Book 1012, No 495 Book 1012 and No 576 Book 953.

**Schedule 6 Classification and reclassification of public land as
community land**

(Clause 38A)

Locality	Description
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