

# Copmanhurst Local Environmental Plan 1990

[1990-198]



New South Wales

## Status Information

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

### Authorisation

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File last modified 5 January 2007

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New South Wales

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# Copmanhurst Local Environmental Plan 1990



New South Wales

## Part 1 Preliminary

### 1 Name of plan

This plan may be cited as *Copmanhurst Local Environmental Plan 1990*.

### 2 Aims, objectives etc

The aims and objectives of this plan are:

- (a) to promote and give effect to the objects of the *Environmental Planning and Assessment Act 1979*, and
- (b) to repeal existing local environmental planning instruments which apply to the Shire of Copmanhurst and to replace those instruments with a comprehensive local environmental plan, and
- (c) to facilitate growth and development of the Shire of Copmanhurst in a manner which:
  - (i) encourages the efficient and effective delivery of services, and
  - (ii) protects the agricultural assets of the Shire, and
  - (iii) protects the natural and cultural resources of the Shire.

### 3 Land to which plan applies

This plan applies to all land within the Shire of Copmanhurst.

### 4 Relationship to other environmental planning instruments

This plan repeals:

- (a) *Interim Development Order No 1—Shire of Copmanhurst*, and
- (b) Copmanhurst Local Environmental Plans Nos 1-3, and
- (c) such other local environmental plans and deemed environmental planning instruments as, immediately before 4 June 1971, applied to the land to which this plan applies to the extent to which they applied to that land.

## 5 Definitions

(1) In this plan:

**abattoir** means a place where animals are slaughtered for human consumption and includes knackeries.

**allotment** means any lot or portion which has been lawfully created.

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

**applicable exempt and complying development control plan** means, in relation to development within a particular zone in the local government area of Clarence Valley, Part C (Exempt and Complying Development) and the related Schedules of the development control plan in the following list of development control plans (all of which were adopted by council on 18 October 2006) that is expressed to apply to land within that zone:

- (a) *Clarence Valley Council Development Control Plan—Development in Business Zones,*
- (b) *Clarence Valley Council Development Control Plan—Development in Environmental Protection, Open Space and Special Use Zones,*
- (c) *Clarence Valley Council Development Control Plan—Development in Industrial Zones,*
- (d) *Clarence Valley Council Development Control Plan—Development in Residential Zones,*
- (e) *Clarence Valley Council Development Control Plan—Development in Rural Zones,*
- (f) *Clarence Valley Council Development Control Plan—Development in Rural Residential Zones.*

**arterial road** means any existing road indicated on the map by a broken black line between continuous black lines on an uncoloured background and listed in Schedule 1.

**bushfire hazard reduction** means a reduction or modification (by burning, chemical, mechanical or manual means) of material that constitutes a bushfire hazard.

**caravan park** means land used for the placement of movable dwellings within the meaning of Division 5B of Part 10 of the *Local Government Act 1919*, the occupier of which is required by that Division to hold a licence under that Division.

**Class A Road** means a road consisting of a 5.6 metre sealed carriageway on an 8.0 metre formation, constructed within a public road reserve.

**Class B Road** means a road consisting of a 5.6 metre gravel pavement within an 8.0 metre formation, constructed within a public road reserve.

**cluster development** means the erection of more than one dwelling-house or duplex building on a single parcel, lot or portion of land within Zone No 2 (a).

**council** means the Council of the Shire of Copmanhurst, subject to clause 5 (3).

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

**Development Control Plan No 1** means *Development Control Plan No 1* as adopted by council on 16 August 1999.

**Development Control Plan No 2** means *Development Control Plan No 2* as adopted by council on 16 August 1999.

**existing parcel** means the area of a parcel of land as at 4 June 1971.

**flood prone land** means land shown hatched on the map.

**flood proofed mound** means an embankment constructed to engineering specifications to provide support for a dwelling or development constructed on flood prone land.

**formation** means the final surface of the ground on which a road runs, excluding any side slopes or drains, after completion of the earthworks for the road.

**heritage item** means a building, work, relic or place of historic, scientific, cultural, social, archaeological, natural or aesthetic significance to the local government area in which it is situated:

- (a) shown edged heavy black, with broken hatching and numbered on the map, or
- (b) described in Schedule 2.

A heritage item may be more particularly described in the Copmanhurst heritage database, held at the office of the council, under the respective heritage database reference number specified in Schedule 2.

**motor showroom** means a building or place used for the display or sale of motor cycles, 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 therein or thereon.

**parcel**, in relation to land, means any area of adjoining or adjacent land held in the

same ownership.

**recreation area** means:

- (a) a children's playground, or
- (b) an area used for sporting activities or sporting facilities, or
- (c) an area used by the council 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.

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

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

**rural tourist facility** means a building or place on an allotment of land which may include a refreshment room but does not include tourist accommodation and which is used to provide tourists with a rural education concerning the growing, production or processing of rural products which are grown or cultivated on that allotment of land.

**the map** means the series of maps marked "*Copmanhurst Local Environmental Plan 1990*", as amended by the maps (or if any sheets of maps are specified, by the specified sheets of the maps) marked as follows:

**Editorial note—**

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

*Copmanhurst Local Environmental Plan 1990 (Amendment No 1)*

*Copmanhurst Local Environmental Plan 1990 (Amendment No 3)*

*Copmanhurst Local Environmental Plan 1990 (Amendment No 5)*

*Copmanhurst Local Environmental Plan 1990 (Amendment No 9)*

*Copmanhurst Local Environmental Plan 1990 (Amendment No 11)*

**tourist facilities** means an establishment for providing holiday accommodation or



recreation and may include a boat shed, boat landing facilities, camping ground, caravan park, holiday cabins, hotel, house boat, marina, motel, playground, refreshment room, shop, water sport facilities or a club used in conjunction with any such activities.

(2) In this plan:

- (a) a reference to a building or place used for a purpose includes a reference to a building or place intended to be used for a purpose, and
- (b) a reference to a map is a reference to a map deposited in the office of the council, and
- (c) a reference to land within a zone specified in the Table to clause 9 is a reference to land shown on the map in the manner identified in clause 8 as the means of identifying land of the zone so specified.

(3) In relation to land within the local government area of Clarence Valley, a reference in this plan to the council includes a reference to Clarence Valley Council.

## 6 Adoption of Model Provisions

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

- (a) the definitions of **arterial road**, **map**, **motor showroom** and **tourist facilities** in clause 4 (1), and
  - (b) clauses 5 (1), (2) and (3), 13-17, 19-23, 26, 28, 29 and 32,
- are adopted for the purposes of this plan.

## 7 Consent authority

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

## Part 2 General restrictions on development of land

### 8 Zones indicated on the map

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

Zone No 1 (a) (Rural (General) Zone)—coloured light brown, edged heavy black and lettered “1 (a)”.

Zone No 1 (b) (Rural (Agricultural Protection) Zone)—coloured light brown, edged heavy black and lettered “1 (b)”.

Zone No 1 (c) (Rural (Small Holdings) Zone)—coloured light brown, edged heavy black and

lettered "1 (c)".

Zone No 1 (d) (Rural (Urban Investigation) Zone)—coloured light brown, edged heavy black and lettered "1 (d)".

Zone No 1 (f) (Rural (Forests) Zone)—coloured light brown, edged heavy black and lettered "1 (f)".

Zone No 2 (a) (Village Zone)—uncoloured, edged red with heavy black edging and lettered "V".

Zone No 4 (a) (Industrial Zone)—coloured purple, edged heavy black and lettered "4 (a)".

Zone No 5 (a) (Special Uses (Public Purposes) Zone)—coloured yellow, edged heavy black and lettered "5 (a)".

Zone No 5 (b) (Special Uses (Railway) Zone)—coloured blue-purple, edged heavy black and lettered "5 (b)".

Zone No 5 (c) (Special Uses (Arterial Roads Proposed) Zone)—broken red band between broken black lines and lettered "5 (c)".

Zone No 6 (a) (Open Space Zone)—coloured dark green, edged heavy black and lettered "6 (a)".

Zone No 7 (a) (Environmental Protection (Wetlands) Zone)—coloured orange, edged heavy black and lettered "7 (a)".

Zone No 8 (a) (National Parks and Nature Reserves Zone)—uncoloured, edged dark green and lettered "8 (a)".

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

- (1) The objectives of a zone are set out in the Table to this clause under the heading "Objectives of zone" appearing in the matter relating to the zone.
- (2) Except as otherwise provided by this plan, in relation to land within a zone specified in the Table to this clause, the purposes (if any):
  - (a) for which development may be carried out without consent, and
  - (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 the council is of the opinion that the carrying out of the development is consistent with the objectives of the zone within which the proposed development is to be carried out.

Table

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

### **1 Objectives of zone**

The objectives of this zone are:

- (a) to enable development for purposes that are:
- (i) appropriate in a rural location, and
  - (ii) sympathetic to the environmental characteristics of the land and the costs of providing public services and amenities, and
- (b) to promote efficient, sustainable, agricultural utilisation of agricultural land, particularly prime crop and pasture land, and
- (c) to control development that may restrict the function of, or create traffic hazards along, arterial roads in rural localities, and
- (d) to encourage the protection and conservation of:
- (i) soil stability (by controlling development in accordance with soil capability), and
  - (ii) forests of commercial value for timber production, and
  - (iii) valuable deposits of minerals, coal, petroleum and extractive materials by controlling the location of development to enable the efficient extraction of those deposits, and
  - (iv) water resources.

### **2 Without development consent**

Agriculture (other than intensive animal keeping); bushfire hazard reduction; forestry; home occupations.

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

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

#### **4 Prohibited**

Advertising structures; boarding-houses; car repair stations; commercial premises; industries (other than extractive industries, home industries, offensive or hazardous industries, rural industries or industries directly associated with, or dependent on, extractive industries); motor showrooms; residential flat buildings; service stations; shops (other than general stores); warehouses.

### **Zone No 1 (b) (Rural (Agricultural Protection) Zone)**

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

The objectives of this zone are:

- (a) to conserve prime crop and pasture land for a range of intensive agricultural pursuits and other agricultural industries, and
- (b) to ensure that development of land in any part of the zone which is liable to flooding is carried out in a manner appropriate to the flood hazard.

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

Agriculture (other than intensive animal keeping); bushfire hazard reduction; forestry; home occupations.

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

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

#### **4 Prohibited**

Advertising structures; boarding houses; car repair stations; caravan parks; commercial premises; consulting rooms; hotels; industries (other than home industries or rural industries); liquid fuel depots; motels; motor showrooms; places of public assembly; places of public worship; recreation facilities; refreshment rooms; residential flat buildings; saleyards; service stations; shops; transport terminals.

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

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

The objectives of this zone are:

- (a) to cater for the demand for rural residential living opportunities on small allotments of land which are not productive for food or fibre production, and
- (b) to cater for the demand for rural residential living opportunities on land having ready access to urban facilities, provided that such development does not create unreasonable or uneconomic demands, or both, for the provision or extension of public amenities or services, and
- (c) to enable other forms of development to be carried out on land within the zone if they are in keeping with the rural character of the locality and are compatible with the existing or likely future rural residential allotments.

## **2 Without development consent**

Agriculture (other than intensive animal keeping); bushfire hazard reduction; forestry; home occupations.

## **3 Only with development consent**

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

## **4 Prohibited**

Abattoirs; advertising structures; animal boarding and training establishments; boarding-houses; bulk stores; car repair stations; caravan parks; clubs; commercial premises; extractive industries; heliports; hotels; industries (other than home industries); junk yards; liquid fuel depots; motels; motor showrooms; multiple occupancies; refreshment rooms; residential flat buildings; rural industries; rural workers' dwellings; shops (other than general stores); stock and saleyards; tourist facilities; transport terminals; warehouses.

## **Zone No 1 (d) (Rural (Urban Investigation) Zone)**

### **1 Objectives of zone**

The objectives of this zone are:

- (a) to identify land which may be needed in the future for urban land uses, and
- (b) to regulate the subdivision and use of land so as to prohibit development which could prejudice the possible future release of land within this zone

for urban purposes, and

- (c) to ensure that the release of land for urban purposes, by rezoning, shall 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 services.

## **2 Without development consent**

Agriculture (other than intensive animal keeping); bushfire hazard reduction; forestry; home occupations.

## **3 Only with development consent**

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

## **4 Prohibited**

Advertising structures; boarding houses; car repair stations; caravan parks; commercial premises; consulting rooms; hotels; industries (other than home or rural industries); liquid fuel depots; motels; motor showrooms; places of public assembly; places of public worship; recreation facilities; refreshment rooms; residential flat buildings; saleyards; service stations; shops; transport terminals.

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

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

The objective of this zone is to retain those lands reserved under the [Forestry Act 1916](#) for the purpose of State Forests.

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

Any purpose authorised under the [Forestry Act 1916](#) or any purpose ancillary or incidental to such a purpose.

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

Nil.

#### **4 Prohibited**

Any purpose other than a purpose included in item 2.

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

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

The objectives of this zone are:

- (a) to recognise existing villages and to enable future development appropriate to their function, and
- (b) to provide for the establishment of a full range of services and facilities associated with a village.

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

Dwelling-houses; home occupations.

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

Any purpose other than a purpose included in item 4.

##### **4 Prohibited**

Abattoirs; animal boarding and training establishments; extractive industries; junk yards; multiple occupancies; offensive or hazardous industries.

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

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

The objectives of this zone are:

- (a) to allocate sufficient land in suitable locations to facilitate and promote the establishment of a broad range of industrial uses, and
- (b) to provide for the necessary support facilities and services in industrial areas.

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

Home occupations.

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

Any purpose other than a purpose included in item 4.

### **4 Prohibited**

Abattoirs; animal boarding and training establishments; boarding-houses; caravan parks; clubs; dwelling-houses (other than those used in conjunction with and situated on the same land as an industry); educational establishments; hospitals; hotels; institutions; motels; motor showrooms; offensive or hazardous industries; places of public worship; refreshment rooms; residential flat buildings; roadside stalls; service stations; shops; tourist facilities.

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

### **1 Objectives of zone**

The objective of this zone is to provide for public purposes and facilities on publicly owned land.

### **2 Without development consent**

Nil.

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

Any public purpose; utility installations.

### **4 Prohibited**

Any purpose other than a purpose included in item 3.

## **Zone No 5 (b) (Special Uses (Railway) Zone)**

### **1 Objectives of zone**

The objectives of this zone are:

- (a) to recognise railway land, and
- (b) to provide for appropriate operational and associated development.

### **2 Without development consent**

Railway purposes.



**3 Only with development consent**

Any purpose other than a purpose included in item 2.

**4 Prohibited**

Nil.

**Zone No 5 (c) (Special Uses (Arterial Roads Proposed) Zone)**

**1 Objectives of zone**

The objective of this zone is to reserve certain land for the purposes of arterial roads or arterial road widening.

**2 Without development consent**

Roads; road widening.

**3 Only with development consent**

Agriculture; drainage; utility installations.

**4 Prohibited**

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

**Zone No 6 (a) (Open Space Zone)**

**1 Objectives of zone**

The objectives of this zone are:

- (a) to recognise existing publicly owned land used or capable of being used for recreational purposes, and
- (b) to reserve certain land (being land that the council proposes to acquire) for the purpose of active or passive recreation.

**2 Without development consent**

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

**3 Only with development consent**

Agriculture; recreation areas; roads; utility installations.

#### **4 Prohibited**

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

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

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

The objectives of this zone are:

- (a) to protect and conserve significant wetlands, and
- (b) to prohibit development which could destroy or damage a wetland ecosystem, and
- (c) to enable the development of public works and services subject to the impact on a wetland ecosystem being minimised.

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

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

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

Clearing of trees and vegetation; construction of levees; drainage; excavation; filling; public utility undertakings; roads.

#### **4 Prohibited**

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

### **Zone No 8 (a) (National Parks and Nature Reserves 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 as advised by the Director of National Parks and Wildlife.

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

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

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

Nil.

### **4 Prohibited**

Any purpose other than a purpose included in item 2.

### **10 Subdivision of land generally**

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

### **11 Acquisition of reserved lands**

- (1) The owner of any land within Zone No 5 (c) or 6 (a) may, by notice in writing, require the council to acquire that land.
- (2) On receipt of a notice referred to in subclause (1), the council shall acquire that land.

### **12 Use of reserved land pending acquisition**

- (1) Land referred to in clause 11 (1) may be developed for any purpose, with the consent of the council, prior to its acquisition by the council.
- (2) In determining whether to grant consent under subclause (1), the council shall take into consideration:
  - (a) the effect of the proposed development on the costs of acquisition, and
  - (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.

## **Part 3 Special provisions**

### **Division 1 Roads**

#### **13 Development along arterial roads**

- (1) This clause applies to land within Zone No 1 (a), 1 (b), 1 (c), 1 (d), 1 (f), 4 (a), or 7 (a).
- (2) A building shall not be erected on land to which this clause applies for a purpose specified in Column 1 of the Table to this subclause if the distance between the proposed building and any arterial road would be less than the distance specified in Column 2 of the Table.

#### **Table**

**Column 1**

**Column 2**

**Purpose**

**Distance in metres  
from arterial road**

Abattoirs, bulk stores, clubs, drive-in theatres, extractive industries, generating works, junk yards, liquid fuel depots, mines, offensive or hazardous industries, sawmills, transport terminals 100

Car repair stations, caravan parks, hotels, industries (other than offensive or hazardous industries), motels 50

Farm structures other than dwelling-houses 20

Any other purpose 20

(3) The council shall not consent to an application to carry out development on land to which this clause applies which has frontage to an arterial road, unless:

(a) access to that land is provided by a road other than the arterial road, wherever practicable, and

(b) in the opinion of the council, the safety and efficiency of the arterial road concerned will not be adversely affected by:

(i) the design of the access to the proposed development, or

(ii) the emission of smoke or dust from the proposed development, or

(iii) the nature, volume or frequency of vehicles using the arterial road to gain access to the proposed development.

(4), (5) (Repealed)

(6) Each lot created by subdivision within Zone No 1 (c) or 1 (d) shall:

(a) have access to a road other than an arterial road, and

(b) be separated from an arterial road by not less than 20 metres of dedicated open space.

## **Division 2 Advertising structures etc**

### **14 Advertising structures**

(1) An advertising structure may be erected on land within Zone No 1 (a), 1 (b), 1 (c), 1 (d), or 4 (a), but only with the consent of the council and where:

(a) the advertising structure is used to display advertisements specific to the lawful use of the site on which the advertising structure is to be erected, and

(b) the council is satisfied that the advertising structure will not interfere with the character or amenity of the area, or jeopardise or impair traffic safety.

(2) The council shall not consent to the erection of an advertising structure on land adjacent to or adjoining Main Road 83 unless it is satisfied that the erection of the advertising structure will not jeopardise or impair traffic safety.

(3) The council may erect advertising signs for the purpose of providing space for general advertisements.

### **15 Hotels, motels and caravan parks**

(1) This clause applies to land within Zone No 1 (a), having frontage to an arterial road.

(2) A hotel, motel or caravan park shall not be erected on an allotment of land to which this clause applies having an area of less than 2 hectares and frontage to an arterial road of less than 200 metres.

## **Division 3 Subdivision and development in rural and environmental protection zones**

### **16 Matters to be considered**

(1) This clause applies to all land within Zone No 1 (a), 1 (b), 1 (c), 1 (d) or 7 (a).

(2) The council shall not consent to development on land to which this clause applies unless it has taken into consideration, in addition to the matters specified in section 90 (1) of the Act, the relevant principles and criteria referred to in Schedule 4.

(3) The council shall not consent to development on land within the vicinity of an Aboriginal relic unless it has consulted with the Director of National Parks and Wildlife.

### **17 Subdivision and dwelling-houses in Zone No 1 (a)—40 hectare allotments**

(1) The council shall not consent to the subdivision of land within Zone No 1 (a) unless the area of each allotment to be created will be not less than 40 hectares.

(2) Where allotments are to be created in accordance with this clause and will have frontage to an arterial road, that frontage shall be not less than 400 metres.

(3) The council shall not consent to the erection of a dwelling-house on an allotment of land within Zone No 1 (a) unless the allotment:

(a) has an area of not less than 40 hectares, or

(b) is an existing parcel of land and is consolidated into one allotment, or

(c) was lawfully created or approved by the Council before, and is one on which a dwelling-house could lawfully have been erected immediately prior to, 30 March

1990, or

(d) was created pursuant to subclauses (1) and (2).

(4) The council shall not consent to the erection of a dwelling-house on an allotment of land within Zone No 1 (a) unless the allotment has frontage to a Class A road or a Class B road.

**18 Subdivision and dwelling-houses on certain land in Zone No 1 (a)—allotments less than 40 hectares**

(1) This clause applies to land within Zone No 1 (a) which has frontage to a road referred to in Schedule 5.

(2) Notwithstanding clause 17, the council may consent to subdivision of land to which this clause applies into allotments having an area of less than 40 hectares, and the erection of a dwelling-house on each allotment created by the subdivision, but only if:

(a) in the case of an allotment of land having an area of not less than 5 hectares—the allotment has frontage to a Class A Road or Class B Road and vehicular access to the nearest town or village is by means of a Class A Road or Class B Road, and

(b) in the case of an allotment of land having an area of less than 5 but not less than 2 hectares—the allotment has frontage to a Class A road and vehicular access to the nearest town or village is by means of a Class A road, and

(c) each allotment to be created will have frontage to an arterial road of not less than 200 metres or to a road listed in Schedule 5 which is not an arterial road of not less than 150 metres, and

(d) the number of allotments to be created by the subdivision will not exceed a ratio of more than one for each 10 hectares of land proposed to be subdivided, and

(e) the total number of lots created under this clause and clause 25A (except the single residue allotment referred to in clause 25A (3)) in any one year does not exceed the number specified in writing by the council with the approval of the Director, and

(f) the total number of direct access points from the land onto an arterial road does not exceed 2, or to a road listed in Schedule 5 which is not an arterial road does not exceed 4, for each existing parcel of land proposed to be subdivided.

(3) The council may consent to the erection of a dwelling-house on an allotment of land lawfully created or approved by the council before, and on which a dwelling-house could lawfully have been erected immediately prior to, 30 March 1990, provided that there is frontage to:

(a) a Class A road for lots with an area of not less than 2 and not more than 5

hectares, or

(b) a Class B road for lots with an area greater than 5 hectares.

(4) The council may consent to the erection of a dwelling-house on an allotment of land created pursuant to subclause (2).

**19 Subdivision and dwelling-houses in Zone No 1 (b)**

(1) The council shall not consent to the subdivision of land within Zone No 1 (b) unless the area of each allotment to be created will be not less than 40 hectares.

(2) Where allotments to be created in accordance with this clause will have frontage to an arterial road, that frontage shall be not less than 400 metres.

(3) The council shall not consent to the erection of a dwelling-house on an allotment of land within Zone No 1 (b) unless the allotment:

(a) has an area of not less than 40 hectares, or

(b) is an existing parcel of land and is consolidated into one allotment, or

(c) was created pursuant to subclauses (1) and (2).

(4) The council shall not consent to the erection of a dwelling-house on land within Zone No 1 (b) unless the allotment has frontage to a Class A road or a Class B road.

**20 Subdivision and dwelling-houses in Zone No 1 (c)**

(1) The council shall not consent to the subdivision of land within Zone No 1 (c) if the land is intended to be used for the purpose of the erection of dwelling-houses unless:

(a) the area of each allotment to be created will be not less than 2 000 square metres, and

(b) a majority of the allotments to be created will have an area of not less than 4 000 square metres, and

(c) each allotment will have frontage to a Class A Road, and

(d) the total number of lots created under this clause and clause 18 (2) in any 12 month period does not exceed the number specified in writing by the Director.

(2) The council shall not consent to the creation of an allotment referred to in subclause (1) unless it will be connected to a reticulated water supply system and the council is satisfied that the allotment is capable of accommodating adequate facilities for the disposal of sewage and domestic waste.

(3) The council shall not consent to the erection of a dwelling-house on an allotment of land within Zone No 1 (c) unless the allotment:

- (a) was lawfully created or approved by the Council before, and is one on which a dwelling-house could lawfully have been erected immediately prior to, 30 March 1990, or
  - (b) is an existing parcel of land and is consolidated into one allotment, or
  - (c) was created pursuant to subclauses (1) and (2).
- (4) The council shall not consent to the erection of a dwelling-house on land within Zone No 1 (c) unless the allotment has frontage to a Class A road.

## **21 Subdivision and dwelling-houses in Zone No 1 (d)**

- (1) The council shall not consent to the subdivision of land within Zone No 1 (d) unless each proposed allotment has an area of not less than 40 hectares and the council is satisfied that the subdivision will complement future urban development.
- (2) Where allotments are to be created in accordance with this clause and will have frontage to an arterial road, that frontage shall be not less than 400 metres.
- (3) The council shall not consent to the erection of a dwelling-house on an allotment of land within Zone No 1 (d) unless the allotment:
  - (a) has an area of not less than 40 hectares, or
  - (b) was lawfully created or approved by the council before, and is one on which a dwelling-house could lawfully have been erected immediately prior to, 30 March 1990, or
  - (c) is an existing parcel of land and is consolidated into one allotment.
- (4) The council shall not consent to the creation of a dwelling-house on land within Zone 1 (d) unless the allotment has frontage to a class A road.

## **22 Rural workers' dwellings**

- (1) This clause applies to land within Zone No 1 (a), 1 (b), 1 (c) or 1 (d).
- (2) The council shall not consent to the erection of a rural worker's dwelling on land to which this clause applies unless:
  - (a) the erection of the dwelling will not impair the viability of the land for agriculture, and
  - (b) the needs of existing agriculture genuinely require that rural workers reside on the land, and
  - (c) any other rural workers' dwellings on the holding are being used by persons substantially engaged in agricultural employment on that land, and



(d) the rural worker intended to be housed in the dwelling is to be employed by the owner of the land.

(3) A rural worker's dwelling may, with the consent of the council, be erected on a parcel of land to which this clause applies on which a rural worker's dwelling is already in existence if the number of such dwellings does not exceed one for each 40 hectares of land contained within the parcel.

### **23 Dual occupancy**

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

(2) Where, in pursuance of this plan, development for the purposes of a dwelling-house may be carried out on an allotment of land to which this clause applies, 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 2 dwellings, or

(b) erect 2 attached dwellings on the allotment,

if, but only if, not more than 2 dwellings will be created or result on that allotment.

(3) A person shall not subdivide land on which development has been carried out in pursuance of this clause if the subdivision would permit the separate occupation of proposed lots illustrated by a proposed plan of subdivision under the *Strata Titles Act 1973*.

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

A dwelling-house may, with the consent of the council, be erected on an allotment of land on which another dwelling-house is erected where the use of the firstmentioned dwelling-house shall not commence until the use of the secondmentioned dwelling-house has permanently ceased or it has been demolished.

### **25 Development in Zone No 7 (a)**

The council shall not consent to the carrying out of development on or adjacent to land within Zone No 7 (a) unless it has taken into consideration:

(a) the likely effects of the development on the flora and fauna found in the wetlands, and

(b) the likely effects of the development on the water table, and

(c) the effect on the wetlands of any proposed clearing, draining, excavation or filling.

## **Division 3A Development of specified sites**

**25A**

- (1) This clause applies to lots 137, 140, 171, 172, 191, 213, 333, 339, 347, 353 and 356 DP 751386 and Lots A and B, DP 405575, Parish of Southgate, as shown edged heavy black on the map marked “*Copmanhurst Local Environmental Plan 1990 (Amendment No 2)*”.
- (2) Nothing in this plan prevents the council from consenting to the subdivision and other development of the land to which this clause applies as a whole under the Community Titles Legislation if the council is satisfied as to the following:
  - (a) the land will be subdivided into not more than 40 allotments suitable for rural residential use clustered on the flood free land known as Round Mountain in the central part of the property,
  - (b) the subdivision under the Community Titles Legislation will achieve common ownership of facilities serving the development, such as access roads, commercial and recreational facilities, and other shared services and facilities,
  - (c) development will be carried out on each of the rural residential allotments created by the subdivision resulting in the erection of a single dwelling-house, and other ancillary and compatible structures, and use of those allotments for activities and works associated with residential living,
  - (d) the residue allotment owned in common will continue to be a contiguous parcel of land, consolidated into one lot, and will be used primarily for agricultural purposes consistent with the zoning of the land,
  - (e) appropriate environmental protection and enhancement works will be undertaken for the protection of wetlands, major remnant vegetation areas, and Aboriginal heritage sites,
  - (f) development will be carried out in a manner which protects against soil erosion, protects groundwater quality and water quality of nearby waterways.
- (3) The single residue allotment held in common must not be further subdivided even if such a subdivision would be allowed by other provisions of this plan.
- (4) Within the nominated 6 residential precincts with boundaries approximating those shown on the concept plan entitled, “Round Mountain Residential Component Draft Concept” dated June 1994 and deposited in the office of the council:
  - (a) each allotment in precincts 2-6 inclusive must not be less than 600 m<sup>2</sup> and not greater than 4000 m<sup>2</sup> in area with an average lot size for all lots in precincts 2-6 of not less than 1000 m<sup>2</sup>, and
  - (b) allotments in precinct 1 must not be less than 400 m<sup>2</sup> and not greater than 600 m<sup>2</sup> in area.

- (5) In this clause, **the Community Titles Legislation** means the *Community Land Development Act 1989* and the *Community Land Management Act 1989*.

#### **25B Motel development at Gateway Village Caravan Park**

- (1) This clause applies to Lot 1, DP 816365, 598 Summerland Way, and known as the Gateway Village Caravan Park.
- (2) Nothing in this plan prevents the council from consenting to the carrying out of development of the land to which this clause applies for the purpose of a motel.

#### **25C Land in Lawrence Road, Grafton—restrictions on development**

- (1) This clause applies to land being Lot 12, DP 817067, Lawrence Road, Grafton, as shown by distinctive colouring and edged heavy black on the map marked “*Copmanhurst Local Environmental Plan 1990 (Amendment No 9)*”, deposited in the office of Copmanhurst Shire Council.
- (2) The Council must not grant consent for the carrying out of development on land to which this clause applies unless the Council is satisfied as to the following:
- (a) that a buffer will be provided on the land, between any proposed residential development and adjoining agricultural land, that is of sufficient width and design to minimise nuisance to the adjoining land,
- (b) that storm water run-off from any proposed residential development will be adequately managed and treated to minimise impacts on the local and downstream environment,
- (c) that a water supply and facilities for the removal or disposal of sewage and drainage are available to any proposed residential development on the land.

### **Division 4 Items of the environmental heritage**

#### **26 Protection of heritage items**

- (1) A person shall not, in respect of a building, work, relic or place that is a heritage item:
- (a) demolish, renovate or extend any such building or work, or
- (b) damage or despoil any such relic or any part of any such relic, or
- (c) excavate any land for the purpose of exposing or removing any such relic, or
- (d) erect a building on the land on which that building, work or relic is situated or the land which comprises that place, or
- (e) subdivide the land on which that building, work or relic is situated or the land which comprises that place,

except with the consent of the council.

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

## **27 Development in the vicinity of heritage items**

The council shall not consent to the carrying out of development on land within 60 metres of the boundary of any land which is or on which there is a heritage item unless it has made an assessment of the effect which the carrying out of that development will have on the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the heritage item and its setting.

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

Where a person makes a development application for consent to demolish a building or work that is a heritage item, the council shall not consent to the application until 28 days after the council has notified the Secretary of the Heritage Council of New South Wales of its intention to do so.

## **29 Advertising of heritage applications**

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 the demolition of a building or work that is a heritage item in the same way as those provisions apply to and in respect of designated development.

## **Division 5 General**

### **30 Flood prone land**

- (1) Notwithstanding any other provision of this plan, a person shall not carry out development for any purpose, other than agriculture, on land within Zone No 1 (a) or 1 (b) shown by firm hatching on the map except with the consent of the council.

- (2) The council shall not consent to a development on an allotment of land referred to in subclause (1) unless consideration has been given to the following matters:
- (a) the council's flood policy,
  - (b) the impact of the development on the floodway, including the potential for damage to adjacent or adjoining development or adverse impacts on flood behaviour,
  - (c) in the case of a dwelling-house, the provision of permanent, fail-safe, maintenance free measures to ensure the timely, orderly and safe evacuation of people from the development,
- and a detailed report from an appropriate consulting engineer has been supplied by the applicant relating to the matters set out in paragraphs (b) and (c).
- (3) Except as provided by clause 13, the building alignment for any development on land referred to in subclause (1) shall be at least 20 metres from any road boundary.
- (4) For the purposes of this clause, **building alignment** means the distance from the road boundary to the front wall of a building, or the point of intersection between the natural ground level and the toe of the flood proofed mound required for a development, whichever is the lesser distance.

### **31 Use of open space**

The council shall not consent to the carrying out of development on land within Zone No 6 (a), being land owned or controlled by the council, unless it has considered:

- (a) the need for the proposed development on that land, and
- (b) the impact of the proposed development on the existing or likely future use of the land, and
- (c) the need to retain the land for its existing or likely future use.

### **32 Suspension of certain laws etc**

- (1) For the purpose of enabling development to be carried out in accordance with this plan or in accordance with a consent granted under the *Environmental Planning and Assessment Act 1979*, 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 *Environmental Planning and Assessment Act 1979*, before the making of this clause the Governor approved of subclause (1).

## Division 6 Exempt and complying development

### 33 What is exempt and complying development?

- (1) Development of minimal environmental impact is **exempt development**, despite any other provision of this plan, if it is listed as exempt development in, and complies with the relevant development standards and other requirements applied to the development by:
  - (a) the applicable exempt and complying development control plan, in the case of development on land within the local government area of Clarence Valley, or
  - (b) *Development Control Plan No 1*, in the case of any other development.
- (2) Development is **complying development** if:
  - (a) it is listed as complying development in, and complies with the relevant developments standards and other requirements applied to the development by:
    - (i) the applicable exempt and complying development control plan, in the case of development on land within the local government area of Clarence Valley, or
    - (ii) *Development Control Plan No 2*, in the case of any other development.
  - (b) it is local development of a kind that can be carried out with consent on the land on which it is proposed, and
  - (c) is not an existing use, as defined in section 106 of the Act.
- (3) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in:
  - (a) the applicable exempt and complying development control plan, in the case of development on land within the local government area of Clarence Valley, or
  - (b) *Development Control Plan No 2*, in the case of any other development,as in force when the certificate is issued.

### Schedule 1 Arterial roads

(Clause 5 (1))

M.R. 83	GRAFTON—CASINO ROAD
M.R. 150	GRAFTON—TABULAM ROAD
M.R. 151	GRAFTON—LAWRENCE ROAD —LAWRENCE-CASINO ROAD
S.R. 84	COALDALE ROAD

## Schedule 2 Heritage items

(Clause 5 (1))

Locality	Description	Map no	Copmanhurst heritage database ref no
<b>Alumy Creek</b>			
	Alumy Creek bridge	1	1450197
	Alumny Creek Community Hall site	2	1450004
	Alumny Creek Public School Museum	3	1450002
	Alumny Creek reserve	4	1450003
	Austen's House	5	1450126
<b>Banyabba</b>			
	Flying Horse Hotel site, Pringles Way	6	1450176
	Old Tenterfield Road	7	1450206
<b>Baryulgil</b>			
	Aboriginal cemetery	8	1450155
	Asbestos mine site	9	1450001
	Hall	10	1450082
	The Square	11	1450122
<b>Carnham</b>			
	The Gorge	12	1450173
<b>Carrs Creek</b>			
	Hall	13	1450117
	Orange Grove Cottage	14	1450028
	Public school (former)	15	1450087
	School residence (former)	16	1450178
<b>Coaldale</b>			
	Coaldale-Barretts Creek memorial hall	17	1450106

	Roberts Cottage	18	1450211
<b>Copmanhurst</b>			
	CBC bank (former) and residence	19	1450172
	Church of the Holy Apostles	20	1450034
	Church of the Holy Apostles Rectory (former)	21	1450167
	Copmanhurst and Upper Clarence war memorial	22	1450075
	Memorial hall	23	1450074
	Police station and residence	24	1450063
	Powder store (former)	25	1450076
	Public school, residence and saddlery	26	1450068
	Rest Point Hotel	27	1450071
	Saleyards (former) and well	28	1450079
<b>Deep Gully</b>			
	Grimsby House	29	1450213
<b>Eighteen Mile</b>			
	Eighteen Mile Station—dingo fence	30	1450093
	Eighteen Mile Station—sheep dip	31	1450200
<b>Ewingar</b>			
	Bob-tail, Ewingar State Forest	32	1450083
	Ewingar Hall	33	1450132
	Forestry camp, Ewingar State Forest	34	1450164
<b>Fine Flower</b>			
	Pluck copper smelter and mines site (former)	35	1450140
<b>Gordon Brook</b>			



	Pulganbar mercury smelter (former)	36	1450032
<b>Junction Hill</b>			
	Waghorn's slab house	37	1450109
<b>Koolkhan</b>			
	Power station (former)	38	1450022
<b>Lawrence</b>			
	Sportsmans Creek bridge	39	1450016
<b>Lionsville</b>			
	Bancroft Stamper battery	40	1450113
	Bassetti grave	41	1450096
	Cemetery	42	1450153
	Cricket pitch	43	1450154
	Lionsville Hotel site	44	1450100
	Lionsville village archaeological site	45	1450005
<b>Lower Southgate</b>			
	Blanch's drain	46	1450170
	Doust Park	47	1450152
	Foley's Butter Factory building	48	1450035
	River Light	49	1450129
	War memorial	50	1450165
<b>Moleville Rocks</b>			
	Grinding grooves	51	1450191
	Recreation reserve	52	1450015
<b>Mountain View</b>			
	Arboretum	53	1450115
<b>Mylneford</b>			
	Cemetery	54	1450062
	First Falls Crossing	55	1450081

**Solferino**

Solferino village archaeological site 56 1450095

Wells 57 1450099

**Southgate**

Bakery (former) and residence 58 1450124

Hall (former) 59 1450084

School (former) 60 1450089

School residence (former) 61 1450139

Southgate Hotel (former) 62 1450085

**Sportsmans Creek**

Weir 63 1450119

**Stockyard Creek**

McKee's dairy and bails (former) 64 1450111

**Trenayr**

Grafton Agricultural Research and Advisory Station 65 1450069

Grafton Agricultural Research and Advisory Station—administration building 66 1450174

Grafton Agricultural Research and Advisory Station—bunyip swamp 67 1450208

Grafton Agricultural Research and Advisory Station—farm buildings 68 1450214

Grafton Agricultural Research and Advisory Station—manager's residence 69 1450072

Grafton Agricultural Research and Advisory Station—rainforest remnant 70 1450205

	Grafton Agricultural Research and Advisory Station—workers' cottages	71	1450204
<b>Upper Copmanhurst</b>			
	Copmanhurst Cemetery	72	1450066
	Davey's Store (former)	73	1450151
	St John of the Cross Church	74	1450007
<b>Whiporie</b>			
	Olive family cemetery	75	1450033
	Whiporie Hall	76	1450133
<b>Winegrove</b>			
	Newbold Lookout	77	1450010
<b>Wyan Creek</b>			
	Bennett's sawmill site	78	1450162
	Wyan Cemetery	79	1450138
	Wyan Creek school site	80	1450186
	Wyan survey mark	81	1450185
<b>Yulgilbar</b>			
	Big House	82	1450029
	Hamilton Graves	83	1450136
	Homestead	84	1450137
	Laundry cottage	85	1450158
	Ogilvie Vault	86	1450157
	Penrose's House site	87	1450202
	Sketch House	88	1450148
	Yulgilbar River crossing	89	1450157
	Yulgilbar Station	90	1450171

### **Schedule 3 (Repealed)**

### **Schedule 4 Principles and criteria of assessment in respect of**

## **development in rural and environmental protection zones**

(Clause 16)

- 1** The ratio of frontage to depth of each allotment is to be assessed having regard to the purpose for which the allotment is to be developed and the need to minimise the creation of vehicular access points to any road and particularly to arterial roads.
- 2** A road access consistent with the council's current standards should be provided between the proposed development and an existing Class A or Class B Road.
- 3** In areas identified by the council as having significant bushfire hazard risk, sufficient design consideration is to be given to the reduction of the potential hazard.
- 4** In areas where potentially significant geological resources have been identified by the council, investigation is to be carried out into the desirability of preserving access to such resources and the effects of possible future extraction of the resource on both existing and future development in the locality.
- 5** In areas identified by the council as being of particular scenic value, the effect that the carrying out of development would have on the retention of existing vegetation on the land and the impact that any proposed building or structure would have on the scenic quality of the locality are to be assessed.
- 6** In areas identified by the council as being flood liable, design consideration is to be given to flood liability in accordance with the council's current policy.
- 7** An assessment is to be made as to the likely impact on the council's road system as a consequence of the development being carried out.
- 8** An assessment is to be made of the impact of proposed drainage works on adjoining lands.
- 9** An assessment is to be made to determine:
  - (a) the area and quality of land and its potential agricultural productivity, and
  - (b) the likely effects, both economic and otherwise, that the proposed subdivision will have on agricultural industries in the area and the resources employed by or in connection with those industries, and
  - (c) the likely effects, both economic and otherwise, that the proposed subdivision will have on the use and development of other land and resources in the area, and
  - (d) whether there are any reasonable alternatives to the proposed subdivision in the circumstances, and
  - (e) the effect of the existence of, or potential to erect, a dwelling, and
  - (f) the cumulative effect of similar proposals if concurrence is granted, and

(g) the likelihood of the proposed allotments remaining available for agricultural use.

**10** An assessment is to be made of identified prime agricultural lands, to include:

- (a) an assessment of the quality of agricultural land, including existing farm layout and infrastructure as well as neighbouring uses, and
- (b) recognition of the impact on existing and neighbouring uses regarding loss of prime land and potential for conflict requiring appropriate buffering,

and all applications for subdivision on land identified as Class 1, 2 and 3 or unique horticultural on the Department's Classification Agricultural Land Maps shall be referred to the Department of Agriculture for comment.

## Schedule 5 Roads

(Clause 18 (1))

M.R. 83	GRAFTON—CASINO ROAD from Red Lane to north boundary of Portion 61, Parish of Clifden
M.R. 150	GRAFTON—TABULAM ROAD from Grafton-Casino Road to the intersection with Smiths Creek Road, Parish of Copmanhurst
S.R. 36	RED LANE
S.R. 60	SCHOOL LANE From north boundary of Portion 53 to south boundary of Portions 38 and 39, Parish of Southgate
S.R. 82	ORCHARD ROAD
S.R. 84	COALDALE ROAD From Grafton-Tabulam Road to north boundary of Lot 2, DP 599071
S.R. 85	BORONIA ROAD
S.R. 86	PINNACLES ROAD
S.R. 87	FORTIS DRIVE
S.R. 92	MOLEVILLE ROCKS ROAD
S.R. 94	SANDER'S ROAD
S.R. 96	GREBERT'S ROAD From Grafton-Tabulam Road to Whiteman Creek
S.R. 100	ROGAN BRIDGE ROAD
S.R. 101	OLD PUNT LANE
S.R. 102	McGRATH'S LANE From Rogan Bridge Road to north boundary of Portion 12, Parish of Eaton

S.R. 103	ELLEM'S LANE From Rogan Bridge Road to southern boundary of Lot 1, DP 582073
S.R. 104	WHITEMAN CREEK ROAD
S.R. 105/106	MYLNEFORD ROAD
S.R. 110	STOCKYARD CREEK ROAD From Grafton-Tabulam Road to north boundary of Portion 270, Parish of Copmanhurst
S.R. 111	BAILLIES ROAD—COPMANHURST From Stockyard Creek Road to north boundary of Lot 1, DP 255502
S.R. 119	AMOS LANE
S.R. 120	BACK LANE—COPMANHURST From Grafton-Tabulam Road to west boundary of Lots 2 and 3, DP 731543