

# Lismore Local Environmental Plan 2000

[2000-173]



New South Wales

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### Authorisation

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New South Wales

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# Lismore Local Environmental Plan 2000



New South Wales

## Part 1 Preliminary

### 1 Name of plan

This plan is *Lismore Local Environmental Plan 2000*.

### 2 Aims, objectives etc of plan

- (1) The general aim of this plan is to provide a flexible planning framework that allows for the maintenance and development of a prosperous, attractive and well-served living environment that reflects the values, needs and aspirations of the Lismore community.
- (2) The objectives of this plan are:
  - (a) **with respect to the economy:**
    - (i) to stimulate and strengthen the role of Lismore as a regional centre, and
    - (ii) to provide a range of opportunities which will improve employment opportunities in Lismore, and
    - (iii) to create opportunities to stimulate tourism and attract visitors to Lismore, and
  - (b) **with respect to transport:**

to provide for the efficient movement of goods and people by encouraging adequate road, rail and air transport systems, and
  - (c) **with respect to community development:**

to provide opportunities for the establishment of community, health and welfare facilities in accessible locations for residents, and
  - (d) **with respect to heritage:**
    - (i) to conserve the environmental heritage of the City of Lismore, and
    - (ii) to integrate heritage conservation into the planning and development control

processes, and

(iii) to provide for public involvement in the matters relating to the conservation of the City of Lismore's environmental heritage, and

(iv) to ensure that new development is undertaken in a manner that is sympathetic to, and does not detract from, the heritage significance of heritage items and their settings, as well as streetscapes and landscapes of Lismore and the distinctive character that they impart to the City of Lismore, and

(e) **with respect to housing:**

to provide a choice in residential living styles and an equitable and appropriate provision of utility services, and

(f) **with respect to leisure and learning:**

to reinforce the function of Lismore as a regional centre for education, sport, culture and recreation, and

(g) **with respect to health:**

to promote and maintain the health and well-being of the residents of the City, and

(h) **with respect to the natural environment:**

to sustain and enhance the City's natural systems, features and processes, including native fauna and flora, and

(i) **with respect to landscape:**

to improve the existing landscape of urban and rural Lismore to enhance the image of the City, the characteristics of each location, the built environment and the quality of life for the community, and

(j) **with respect to natural hazards:**

to minimise the adverse effects of natural hazards, particularly flood, fire and the instability of land.

### **3 Land to which plan applies**

This plan applies to all land within the City of Lismore as shown on the map, with boundaries as indicated on that map.

### **4 Relationship to other environmental planning instruments**

(1) *Lismore Local Environmental Plan 1992* is repealed.

- (2) *State Environmental Planning Policy No 4—Development Without Consent* is amended by inserting the following words in alphabetical order of local government area in Schedule 2 (Land excepted from clauses 6-10):

Lismore City local government area

## **5 Adoption of Model Provisions**

The *Environmental Planning and Assessment Model Provisions 1980* are adopted for the purposes of this plan, with the exception of clauses 4, 8, 14, 15, 16, 17, 23, 29, 32, 33, 34, and 35 (c) of, and clause 11 of Schedule 1 to, those Provisions.

## **6 Definitions**

- (1) In this plan, terms defined in Schedule 7 have the same meaning as set out in that Schedule.
- (2) In this plan:
- (a) a reference to a map is a reference to a map deposited in the office of the Council, and
  - (b) a reference to a building or place used for a purpose includes a reference to a building or place intended to be used for the purpose, and
  - (c) matter that appears under the heading “Note” is an explanatory note only and does not form part of this plan. It is provided to assist understanding.

## **7 Consent authority**

The Council is the consent authority for the purposes of this plan, except as provided otherwise by the Act.

## **8 Zone identification**

Land to which this plan applies is within a zone specified below if it is shown on the map as indicated below:

Zone No 1 (a)—(General Rural Zone)—with black edging and lettered “1 (a)”.

Zone No 1 (b)—(Agricultural Zone)—with black edging and lettered “1 (b)”.

Zone No 1 (c)—(Rural Residential Zone)—with black edging and lettered “1 (c)”.

Zone No 1 (d)—(Investigation Zone)—with black edging and lettered “1 (d)”.

Zone No 1 (f)—(Forestry Zone)—with black edging and lettered “1 (f)”.

Zone No 1 (r)—(Riverlands Zone)—with black edging and lettered “1 (r)”.



Zone No 2 (a)—(Residential Zone)—with black edging and lettered “2 (a)”.

Zone No 2 (f)—(Residential (Flood Liable) Zone)—with black edging and lettered “2 (f)”.

Zone No 2 (v)—(Village Zone)—with black edging and lettered “2 (v)”.

Zone No 3 (a)—(Business Zone)—with black edging and lettered “3 (a)”.

Zone No 3 (b)—(Neighbourhood Business Zone)—with black edging and lettered “3 (b)”.

Zone No 3 (f)—(Services Business (Flood Liable) Zone)—with black edging and lettered “3 (f)”.

Zone No 4 (a)—(Industrial Zone)—with black edging and lettered “4 (a)”.

Zone No 5—(Special Uses Zone)—with black edging and lettered “5” (with black lettering indicating the particular use for the land).

Zone No 5 (b)—(Special Uses (Technology Park) Zone)—with black edging and lettered “5 (b)”.

Zone No 6 (a)—(Recreation Zone)—with black edging and lettered “6 (a)”.

Zone No 6 (b)—(Private Recreation Zone)—with black edging and lettered “6 (b)”.

Zone No 7 (a)—(Environment Protection (Natural Vegetation and Wetlands) Zone)—with black edging and lettered “7 (a)”.

Zone No 7 (b)—(Environment Protection (Habitat) Zone)—with black edging and lettered “7 (b)”.

Zone No 8—(National Parks and Nature Reserves Zone)—with black edging and lettered “8”.

## 9 Exempt and complying development

- (1) Development of minimal impact listed in *Development Control Plan No 39—Exempt Development*, as adopted by the Council on 12 October 2004, is **exempt development**, despite any other provision of this plan.
- (2) Development listed in *Development Control Plan No 40—Complying Development*, as adopted by the Council on 12 October 2004, 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 respectively by *Development Control Plan No 39—Exempt Development* or *Development Control Plan No 40—Complying Development*, as so adopted.
- (4) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in *Development Control Plan No 40—Complying Development* adopted by the Council, as in force when the certificate is issued.
- (5) Exempt and complying development may be carried out within an environmentally sensitive area described in the Table to this clause only if the development is listed in that Table as development that can be carried out in such an area.

### Table

#### Exempt and complying development allowed within environmentally sensitive areas

Environmentally sensitive areas	Exempt or complying development (as identified in DCP No 39 or 40) that may be carried out:	
	Exempt	Complying
Flood affected land	All	Additions and alterations to existing dwellings; Swimming pools; Industrial and warehouse building additions; Commercial buildings—alterations and fitouts
Heritage conservation areas	Aerials and antennae (domestic use); Aviaries; Builders' sheds; Clotheslines; Cubbyhouses; Fish ponds; Flagpoles; Gas tanks; Gazebos; Greenhouses; Letterboxes; Restumping; Water heaters	Nil
Catchment areas	All	Nil

Environment Protection (Natural Vegetation and Wetlands) Zone	All (except farm sheds)	Nil
Environment Protection (Habitat) Zone	All (except farm sheds)	Nil
National Parks and Nature Reserves Zone	All (except farm sheds)	Nil
Agricultural Zone	All	Swimming pools; Commercial buildings—internal alterations
Areas identified by the Council as bush fire prone areas	All	Dwelling additions, alterations and ancillary development; Swimming pools; Industrial and warehouse buildings additions and alterations; Commercial buildings—minor internal alterations; Existing commercial buildings to be used for certain food premises; Strata subdivisions

## Part 2 General provisions

### 10 Advertised development

The consent authority must not consent to advertised development unless the consent authority has had regard to the matters relating to environmental impact specified in Schedule 5.

### 11 Subdivision of land generally

Except as otherwise provided in this plan, a person may not subdivide land to which this plan applies except with development consent.

### 12 Heritage conservation objectives

The objectives of this plan in relation to heritage are:

- (a) to conserve the environmental heritage of Lismore City, and
- (b) to conserve the heritage significance of existing significant fabric, relics, settings and views associated with the heritage significance of heritage items and heritage conservation areas, and
- (c) to ensure that archaeological sites and places of Aboriginal heritage significance are conserved, and

- (d) to allow for the protection of places which have the potential to have heritage significance but are not identified as heritage items, and
- (e) to ensure that the heritage conservation areas throughout Lismore City retain their heritage significance.

### **13 Protection of heritage items and heritage conservation areas**

- (1) **When is consent required?** The following development may be carried out only with development consent:
  - (a) demolishing or moving a heritage item or a building, work, relic, tree or place within a heritage conservation area,
  - (b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area by making structural or non-structural changes to its exterior, such as to its detail, fabric, finish or appearance,
  - (c) altering a heritage item by making structural changes to its interior,
  - (d) disturbing or excavating a place of Aboriginal heritage significance or an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
  - (e) moving the whole or a part of a heritage item,
  - (f) erecting a building on, or subdividing, land on which a heritage item is located or which is within a heritage conservation area.
- (2) **What exceptions are there?** Development consent is not required by this clause if:
  - (a) in the opinion of the consent authority:
    - (i) the proposed development is of a minor nature or consists of maintenance of the heritage item or of a building, work, archaeological site, tree or place within a heritage conservation area, and
    - (ii) the proposed development would not adversely affect the significance of the heritage item or heritage conservation area, and
  - (b) the proponent has notified the consent authority in writing of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development will comply with this subclause and that development consent is not otherwise required by this plan.
- (3) Development consent is not required by this clause for the following development in a cemetery or burial ground if there will be no disturbance to human remains, to relics in

the form of grave goods or to a place of Aboriginal heritage significance:

- (a) the creation of a new grave or monument, or
- (b) an excavation or disturbance of land for the purpose of carrying out conservation or repair of monuments or grave markers.

(4) **What must be considered in assessing a development application?** Before granting a consent required by this clause, the consent authority must assess the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(5) **What extra documentation is needed?** The assessment must include consideration of a heritage impact statement that addresses at least the following issues (but is not to be limited to assessment of those issues, if the heritage significance concerned involves other issues). The consent authority may also decline to grant such a consent until it has considered a conservation management plan, if it considers the proposed development should be assessed with regard to such a plan.

(6) The minimum number of issues that must be addressed by the heritage impact statement are:

(a) for development that would affect a heritage item:

- (i) the heritage significance of the item as part of the environmental heritage of the City of Lismore, and
- (ii) the impact that the proposed development will have on the heritage significance of the item and its setting, including any landscape or horticultural features, and
- (iii) the measures proposed to conserve the heritage significance of the item and its setting, and
- (iv) whether any archaeological site or potential archaeological site would be adversely affected by the proposed development, and
- (v) the extent to which the carrying out of the proposed development would affect the form of any historic subdivision, and

(b) for development that would be carried out in a heritage conservation area:

- (i) the heritage significance of the heritage conservation area and the contribution which any building, work, relic, tree or place affected by the proposed development makes to this heritage significance, and
- (ii) the impact that the proposed development would have on the heritage significance of the heritage conservation area, and

- (iii) the compatibility of the proposed development with nearby original buildings and the character of the heritage conservation area, taking into account the size, form, scale, orientation, setbacks, materials and detailing of the proposed development, and
- (iv) the measures proposed to conserve the significance of the heritage conservation area and its setting, and
- (v) whether any landscape or horticultural features would be affected by the proposed development, and
- (vi) whether any archaeological site or potential archaeological site would be affected by the proposed development, and
- (vii) the extent to which the carrying out of the proposed development in accordance with the consent would affect any historic subdivision pattern, and
- (viii) the issues raised by any submission received in relation to the proposed development in response to the notification or advertising of the application.

#### **14 Advertised development**

The following development is identified as advertised development:

- (a) the demolition of a heritage item or a building, work, tree or place in a heritage conservation area,
- (b) the carrying out of any development allowed by clause 17B.

#### **15 Notice of demolition to the Heritage Council**

Before granting consent for the demolition of a heritage item identified in Schedule 1 as being of State significance, the consent authority must notify the Heritage Council about the application and take into consideration any comments received in response within 28 days after the notice is sent.

#### **16 Development affecting places or sites of known or potential Aboriginal heritage significance**

Before granting consent for development that is likely to have an impact on a place of Aboriginal heritage significance or a potential place of Aboriginal heritage significance, or that will be carried out on an archaeological site of a relic that has Aboriginal heritage significance, the consent authority must:

- (a) consider a heritage impact statement explaining how the proposed development would affect the conservation of the place or site and any relic known or reasonably likely to be located at the place or site, and
- (b) except where the proposed development is integrated development, notify the local

Aboriginal communities (in such way as it thinks appropriate) and the Director-General of the Department of Environment and Conservation of its intention to do so and take into consideration any comments received in response within 28 days after the relevant notice is sent.

**17 Development affecting known or potential archaeological sites of relics of non-Aboriginal heritage significance**

- (1) Before granting consent for development that will be carried out on an archaeological site or a potential archaeological site of a relic that has non-Aboriginal heritage significance (whether or not it is, or has the potential to be, also the site of a relic of Aboriginal heritage significance), the consent authority must:
  - (a) consider a heritage impact statement explaining how the proposed development will affect the conservation of the site and any relic known or reasonably likely to be located at the site, and
  - (b) notify the Heritage Council of its intention to do so and take into consideration any comments received in response within 28 days after the notice is sent.
- (2) This clause does not apply if the proposed development:
  - (a) does not involve disturbance of below-ground deposits and the consent authority is of the opinion that the heritage significance of any above-ground relics would not be adversely affected by the proposed development, or
  - (b) is integrated development.

**17A Development in the vicinity of a heritage item**

- (1) Before granting consent to development in the vicinity of a heritage item, the consent authority must assess the impact of the proposed development on the heritage significance of the heritage item and of any heritage conservation area within which it is situated.
- (2) This clause extends to development:
  - (a) that may have an impact on the setting of a heritage item, for example, by affecting a significant view to or from the item or by overshadowing, or
  - (b) that may undermine or otherwise cause physical damage to a heritage item, or
  - (c) that will otherwise have any adverse impact on the heritage significance of a heritage item or of any heritage conservation area within which it is situated.
- (3) The consent authority may refuse to grant any such consent unless it has considered a heritage impact statement that will help it assess the impact of the proposed development on the heritage significance, visual curtilage and setting of the heritage item.

- (4) The heritage impact statement should include details of the size, shape and scale of, setbacks for, and the materials to be used in, any proposed buildings or works and details of any modification that would reduce the impact of the proposed development on the heritage significance of the heritage item.

### **17B Conservation incentives**

The consent authority may grant consent to the use for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though the use would otherwise not be allowed by this plan, if:

- (a) it is satisfied that the retention of the heritage item depends on the granting of consent, and
- (b) the proposed use is in accordance with a conservation management plan which has been endorsed by the consent authority, and
- (c) the granting of consent to the proposed use would ensure that all necessary conservation work identified in the conservation management plan is carried out, and
- (d) the proposed use would not adversely affect the heritage significance of the heritage item or its setting, and
- (e) the proposed use would not adversely affect the amenity of the surrounding area otherwise than to an insignificant extent.

### **17C Development in heritage conservation areas**

- (1) Before granting consent for the erection of a building within a heritage conservation area, the consent authority must be satisfied that the features of the proposed building will be compatible with the heritage significance of the heritage conservation area, having regard to the form of, and materials used in, buildings that contribute to the heritage significance of the heritage conservation area.
- (2) In satisfying itself about those features, the consent authority must have regard to at least the following (but is not to be limited to having regard to those features):
  - (a) the pitch and form of the roof (if any), and
  - (b) the style, size, proportion and position of the openings for windows or doors (if any), and
  - (c) the colour, texture, style, size and type of finish of the materials to be used on the exterior of the building.

### **18 Preservation of trees**

- (1) The objective of this clause is to provide that the Council may regulate the removal or lopping of trees for the purpose of securing or preserving the amenity of premises, a



streetscape or a neighbourhood and securing or preserving koala habitat by introducing a development control plan.

- (2) Despite any other provision of this plan, a person must not, without development consent, ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree identified in a development control plan approved for the purposes of this clause by the Council on land specified or described in that plan.

## **19 Development of land near adjoining zones**

- (1) This clause applies to land within 50 metres of a boundary between any two zones under this plan, or between land zoned under this plan and land to which this plan applies that is not zoned under this plan. However, this clause does not allow development within Zone No 7 (a) or 7 (b).
- (2) Subject to subclause (3), development may, with consent, be carried out on land to which this clause applies for any purpose for which development may be carried out in any adjoining zone.
- (3) Consent must not be granted to the carrying out of development referred to in subclause (2) unless, in the opinion of the consent authority, the carrying out of the development is desirable due to design, ownership, servicing or similar requirements.

## **20 Buffer zones to avoid potential land use conflicts**

- (1) This clause applies to all land to which this plan applies.
- (2) Despite any other provision of this plan, consent must not be granted to residential, rural residential or tourism development (including subdivision for those purposes), unless it has been demonstrated, to the satisfaction of the consent authority, that the proposed development will be compatible with any existing specified land uses in the locality and with surrounding established development.
- (3) In subclause (2), **specified land uses** means use of land for the purposes of cattle dips, dairies, cattle feedlots, chicken farms, intensive horticulture, piggeries, refuse disposal areas, sewage treatment works, quarries and other similar land uses.

## **21 Investigation areas referred to on zoning map**

- (1) This clause applies to land identified on the map as land to which this clause applies.
- (2) Consent must not be granted to the carrying out of development on land to which this clause applies unless the consent authority has considered any likely conflict between the proposed use and longer term future uses of the land.

## **22 Development on flood affected land**

- (1) The consent authority, when considering a development application involving the

subdivision of, or the erection or alteration of buildings on, land shown as floodway, high flood risk area, flood fringe area or CBD flood liable on Map 1 (Lismore Flood Hazard Categories) of the *Lismore Floodplain Management Plan*, must consider the following:

- (a) the need for the floor level of the development to be at or above the flood planning level,
  - (b) the degree of flood-proofing and the need for flood-free storage,
  - (c) the need for access to the development when the land is flooded,
  - (d) the cumulative effect of carrying out the development on the functioning of the floodway,
  - (e) whether the development will increase the risk to life and property and the need for an evacuation plan.
- (2) Despite the provisions of Part 3, the consent authority must not grant consent to the erection of a building on land shown as floodway on Map 1 of the *Lismore Floodplain Management Plan* unless:
- (a) the building is for the purpose of providing utility installations or community facilities, or
  - (b) the building is located within 10 metres of the boundary of the floodway and a hydraulic study has been carried out for the site which shows, to the consent authority's satisfaction, that the flood impact of the development (including any associated works) will not adversely affect the flood behaviour of, or increase the flooding impacts on, any other land, or
  - (c) the building is located within the general aviation area of Lismore Regional Airport, as indicated on the map marked "*Lismore Regional Airport*" in the *Lismore Regional Airport Business Strategy Plan* dated June 2002, and the development is consistent with that Plan and maintains the cross sectional integrity of the floodway, or
  - (d) the building is located on an allotment forming part of the concept plan for the airport industrial estate, as indicated on Map 2 (Concept for Development of Airport Land) of the *Lismore Floodplain Management Plan*.
- (2A) Despite the provisions of Part 3, the consent authority must not grant consent to an alteration to an existing building on land shown as floodway on Map 1 of the *Lismore Floodplain Management Plan* unless all of the following are satisfied:
- (a) the alteration will not result in the creation of any new dwelling,
  - (b) there is no expansion of the building footprint,

- (c) all building work that is not internal is above the flood standard,
  - (d) any new materials at or below the flood standard in internal work are flood compatible,
  - (e) a certificate is provided from a suitably qualified engineer that states that the building (including its foundations) when modified will be able to withstand the impacts of the floodwaters and debris in the floodway for floods up to the 1 in 500 year average recurrence interval (ARI) flood.
- (3) Despite the provisions of Part 3, the consent authority must not grant consent to development for the purpose of a dwelling or a caravan park on land shown as high flood risk area on Map 1 of the *Lismore Floodplain Management Plan* unless the consent authority:
- (a) has considered a flood report prepared by a suitably qualified consultant which provides site specific detail relating to the predicted depths and velocities of the 1 in 100 year average recurrent interval (ARI) flood, and
  - (b) is satisfied that the flooding characteristics of the site indicated by the flood report are less hazardous than the criteria for flood depth and velocity adopted for the high flood risk area in the *Lismore Floodplain Management Plan*.
- (4) Despite the provisions of Part 3, a person must not carry out filling on land shown as floodway, high flood risk area, flood fringe area or CBD flood liable on Map 1 (Lismore Flood Hazard Categories) of the *Lismore Floodplain Management Plan* except with development consent.
- (5) In this clause:

**average recurrence interval (ARI)** means the average period between the recurrence of a storm event of a given rainfall intensity. The ARI represents a statistical probability.

**flood planning level** means the level equivalent to the 1 in 100 year ARI flood level plus freeboard of 300 millimetres. (The 1 in 100 year ARI flood levels for the Lismore urban area are shown on Map 2 of *Development Control Plan No 7—Flood Prone Lands* dated November 2003. The freeboard adopted by that Plan is 300 millimetres. So the flood planning level may be calculated by adding 300 millimetres to the 1 in 100 year ARI flood level for the relevant area shown on Map 2 of that Plan.)

**Lismore Floodplain Management Plan** means the *Lismore Floodplain Management Plan* dated October 2002, deposited in the office of the Council.

### 23 Irrigation, forestry and flood mitigation works

Nothing in this plan is to be construed as restricting or prohibiting (or enabling the consent authority to restrict or prohibit) the carrying out, or causing to be carried out, by a

public authority, of any work for the purpose of:

- (a) soil conservation, or
- (b) irrigation, or
- (c) afforestation, or
- (d) reforestation, or
- (e) flood mitigation, or
- (f) water conservation, or
- (g) river improvements,

in pursuance of the provisions of the *Water Act 1912*, the *Irrigation Act 1912*, the *Farm Water Supplies Act 1946*, the *Rivers and Foreshores Improvement Act 1948* or the *Local Government Act 1993*.

#### **24 Development for the purpose of advertisements**

- (1) **Erection or display of advertisements** Development for the purpose of the erection or display of an advertisement in a zone is development that:
  - (a) may be carried out without development consent if it is listed under the heading “Without development consent” for that zone, or
  - (b) may be carried out only with development consent if it is listed under the heading “Only with development consent” for that zone, or
  - (c) is prohibited if it is listed under the heading “Prohibited” for that zone,in the Table to clause 5 of *Lismore Development Control Plan No 36* as adopted by the Council on 14 August 2001.
- (2) (Repealed)
- (3) **Advertisements on trailers and motor vehicles on public land** The development of public land (within the meaning of clause 74) to display an advertisement for a commercial purpose on a motor vehicle or trailer is prohibited. This subclause does not apply to a motor vehicle or a trailer attached to a motor vehicle while the vehicle or vehicle and trailer are otherwise lawfully on the carriageway of a public street.
- (4) **Directional signs** Nothing in this clause requires development consent for the erection or display of a directional sign by the Council or another public authority.
- (5) **Matters for assessment relating to outdoor advertising** When assessing a development application for consent to development for the purpose of the erection or display of an advertisement, the consent authority shall take into consideration the following:

- (a) the size and number of advertising signs both proposed and existing,
- (b) the relationship of the advertising sign to the scale, character and architecture of the premises where the sign is to be sited,
- (c) the impact of the sign on the streetscape and heritage value (if any) of the area,
- (d) the colour, graphics and standard of presentation of the advertising sign,
- (e) the impact of the advertising sign on traffic safety in the area, and on residential amenity, where relevant,
- (f) any Council policy in relation to the control of outdoor advertising.

## **25 Development along main roads**

- (1) Consent must not be granted to the carrying out of development on land that has frontage to a main road, unless:
  - (a) vehicular access to that land is provided by a road other than the main road, wherever possible, and
  - (b) in the opinion of the consent authority, the safety and efficiency of the main road will not be adversely affected by:
    - (i) the design of the vehicular 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 main road to gain access to the proposed development.
- (2) Notwithstanding the provisions of subclause (1), consent must not be granted to the carrying out of development listed in Schedule 3 on land within Zone No 1 (a), 1 (b), 1 (c), 1 (d), 1 (r), 7 (a) or 7 (b) if the development will create direct vehicular access to:
  - (a) a main road, or
  - (b) a road connecting with a main road, where the access to that road is within 90 metres (measured along the road alignment of the connecting road) of the alignment of the main road.

## **26 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 other like instrument imposing restrictions as to the erection of 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).

## 27 (Repealed)

## 28 Additional development on certain land

Despite any other provision of this plan, a person may, with development consent, carry out development on land specified in Column 1 of Schedule 4, if the development is specified in Column 2 of that Schedule opposite the land, subject to compliance with the development standards or other conditions (if any) specified in Column 3 of that Schedule opposite the land.

### 28A Development on land identified on Acid Sulfate Soil Planning Maps

- (1) **Objectives** The objectives of this clause are to require special assessment of certain developments on land identified as being subject to acid sulfate soils and to provide for a regime of self-regulation by organisations which have demonstrated to Council their ability to manage acid sulfate soil issues.
- (2) **Consent usually required** A person must not, without the consent of Council, carry out works described in the following table on land of the class specified for those works, except as provided by subclause (4).

<b>Class of land as shown on Acid Sulfate Soil Planning Map</b>	<b>Works</b>
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 the 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 the 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.

- (3) For the purpose of subclause (2) **works** includes:

- (a) any disturbance of more than one tonne of soil (such as occurs in carrying out agriculture, agricultural-related works, the construction or maintenance of drains, engineering works, 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.
- (4) **Exception following preliminary assessment** This clause does not require consent for the carrying out of 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 Council, and
  - (b) the Council has provided written advice to the person proposing to carry out the works confirming that results of the preliminary assessment indicate the proposed works need not be carried out pursuant to an acid sulfate soils management plan prepared in accordance with the *Acid Sulfate Soils Assessment Guidelines*.
- (5) **Application guidelines** Applicants should consult Lismore City Council *Development Control Plan No 38—Acid Sulfate Soils* prior to lodgement of applications and prepare their application in accordance with the requirements of that DCP.
- (6) **Considerations for consent authority** Council must not grant consent, pursuant to this clause, unless it has first 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.
- (7) **Public authorities not exempted** This clause requires consent for development to be carried out by Lismore City Council, other councils, county councils or drainage unions despite:
- (a) Clause 23 of this plan, and
  - (b) Clause 35 and item 2 of Schedule 1 to the *Environmental Planning and Assessment Model Provisions 1980*, as adopted by this plan.
  - (c) (Repealed)

(8) **Special provisions for Council and county councils** Notwithstanding the provisions of subclause (7), 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.

(9) Despite subclause (8), development consisting of routine maintenance or minor work may be carried out only with consent if the development is on a site listed as a heritage item in Schedule 1.

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

(11) In this clause:

**council's work** means such works as are owned or controlled by the Council.

**county council** has the same 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.

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

**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 soil is disturbed.



**works of a county council** means such works as are owned or controlled by a county council.

- (12) **Special provisions for NSW Sugar Milling Cooperative Ltd** Subclauses (2) and (6) do not apply to works carried out on land shown as class 1, 2, 3, 4 and 5 land on the series of maps marked "*Acid Sulfate Soil Planning Map*" for the purpose of agriculture (including drains, land levelling, dams, road works and 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, and
  - (b) the works are carried out in accordance with a drainage management plan lodged with and endorsed by the NSW Sugar Milling Cooperative, and
  - (c) the drainage management plan has been prepared in accordance with the *Sugar Industry Best Practice Guidelines*, a copy of which is available at the office of the Council, and
  - (d) the *Sugar Industry Best Practice Guidelines* have been approved by the Director-General of the Department of Urban Affairs and Planning in consultation with the NSW Acid Sulfate Soils Management Advisory Committee (ASSMAC) and the Department of Agriculture and have been adopted by the Council, and
  - (e) the works are not carried out in respect of any major drain listed in Schedule 8, or on land within Zone No 7 (a) or 7 (b), and
  - (f) Council has not served a notice on the person carrying out or using the works requiring that the carrying out or use of the works must cease or that development consent must be obtained prior to the carrying out or further use of the works.
- (13) An annual review of drainage management plans and works to which subclause 12 relates is to be carried out by, or on behalf of, the NSW Sugar Milling Co-operative Ltd to a standard satisfactory to the Council and the Co-operative is to provide the Council with a copy of the results of the review immediately after it has been carried out. The Council may issue a notice under subclause (12) (f) relating to any one or more of those works if either of those requirements is not complied with.

## **28B Demolition of a building or work**

A person must not demolish any building or work except with development consent, unless:

- (a) the demolition is authorised by a condition of consent for a subdivision or other development, or
- (b) an order to demolish has been issued by the Council under Division 2A of Part 6 of the Act, or

- (c) the building or work is exempt development.

## **Part 3 Provisions applying to particular zones**

### **29 Zone objectives and zoning control tables**

- (1) The objectives of each zone are set out in the table in this Part that provides general zoning controls for that zone, under the heading “Objectives (or Objective) of zone”.
- (2) Except as otherwise provided for by this plan, for each zone, the development that:
  - (a) may be carried out without development consent, is indicated in the table that provides general zoning controls for that zone under the heading “Without development consent”, or
  - (b) may be carried out only with development consent, is indicated in that table under the heading “Only with development consent”, or
  - (c) is prohibited, is indicated in that table under the heading “Prohibited”.
- (3) The consent authority must not grant consent to the carrying out of development in a particular zone unless the consent authority is of the opinion that the proposed development is consistent with the objectives of the zone in which it is to be carried out.
- (4) Development is advertised development, for the purposes of the Act, if the development is listed under the heading “Only with development consent—advertised development” in the table that provides general zoning controls for a particular zone. However, such development is not advertised development if it involves only alterations or additions to existing buildings or works, being alterations or additions of a minor nature which, in the opinion of the consent authority, do not to any significant extent change the scale, impact, size or degree of the existing buildings or works.

## **Division 1 Rural zones**

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

The following table provides general zoning controls for Zone No 1 (a):  
Table

#### **30.1 Objectives of zone**

The objectives are:

- (a) to maintain and encourage sustainable agricultural activities within the zone, and
- (b) to enable a range of other uses to occur on rural land providing such uses do not conflict with existing or potential agriculture and do not detract from the scenic amenity and character of the rural environment, and

- (c) to discourage the fragmentation of rural land, and
- (d) to restrict the establishment of inappropriate traffic generating uses along main road frontages, and
- (e) to enable the provision of rural tourist accommodation and facilities only where such facilities are compatible with the form and density of the nature of the locality.

### **30.2 Without development consent**

Development for the purpose of:

- agriculture (other than animal establishments)
- bush fire hazard reduction
- forestry
- home occupations

Exempt development

### **30.3 Only with development consent**

Development not included in item 30.2, 30.4 or 30.5.

### **30.4 Only with development consent—advertised development**

Development for the purpose of:

- abattoirs
- airfields
- caravan parks or mobile home parks for non-permanent occupation
- extractive industries
- generating works
- helipads
- heliports
- industries (other than home, light or rural industries)
- institutions
- liquid fuel depots
- mines

- motels
- offensive or hazardous industries
- service stations

### **30.5 Prohibited**

Development for the purpose of:

- amusement parlours
- boarding houses
- brothels
- bulky goods showrooms
- car repair stations
- commercial premises
- liquor outlets (other than those physically attached to and operated or to be operated as part of a convenience shop)
- markets
- residential flat buildings
- restricted premises
- shops (other than convenience shops)
- storage sheds
- warehouses

## **31 Zone No 1 (b) (Agricultural Zone)**

The following table provides general zoning controls for Zone No 1 (b):  
Table

### **31.1 Objectives of zone**

The objectives are:

- (a) to preserve areas of higher quality agricultural land for agricultural production, and
- (b) to permit a range of activities that support the agricultural industries being conducted on the land and limit development that may, in the opinion of the Council, reduce the agricultural production potential of the land, and

- (c) to discourage the fragmentation of rural land, and
- (d) to control development that may restrict the function of, or create a traffic hazard along, classified roads, and
- (e) to enable tourist facilities to be provided that promote an appreciation of the rural environment and associated agricultural and horticultural activities, while ensuring the continued economic viability of the land.

### **31.2 Without development consent**

Development for the purpose of:

- agriculture (other than animal establishments)
- bush fire hazard reduction
- forestry
- home occupations

Exempt development

### **31.3 Only with development consent**

Development not included in item 31.2, 31.4 or 31.5.

### **31.4 Only with development consent—advertised development**

Development for the purpose of:

- industries (other than home, light or rural industries)
- recreation establishments

### **31.5 Prohibited**

Development for the purpose of:

- abattoirs
- airfields
- amusement parlours
- boarding houses
- brothels
- bulky goods showrooms
- caravan parks

- car repair stations
- clubs
- commercial premises
- drive-in theatres
- generating works
- goods transport terminals
- helipads
- heliports
- hospitals
- institutions
- licensed premises
- liquid fuel depots
- liquor outlets (other than those physically attached to and operated or to be operated as part of a convenience shop)
- markets
- materials recycling yards
- medical centres
- motels
- motor showrooms
- offensive or hazardous industries
- passenger transport terminals
- recreation facilities
- recreation vehicle areas
- residential flat buildings
- restricted premises
- service stations
- shops (other than convenience shops)

- storage sheds
- tourist facilities (other than rural tourist facilities)
- transport depots
- warehouses.

### **32 Zone No 1 (c) (Rural Residential Zone)**

The following table provides general zoning controls for Zone No 1 (c):  
Table

#### **32.1 Objectives of zone**

The objectives are:

- (a) to provide opportunities for rural residential living in areas in close proximity to existing villages and urban areas where services are readily and economically accessible, and
- (b) to minimise the cost of development to the general community by requiring persons benefiting from rural residential development to both pay for and provide their own on-site utility services, where appropriate, and
- (c) to preserve and enhance the amenity of the rural residential area requiring the preparation of an environmental impact report or development control plan where the Council deems necessary prior to the development of the land, and
- (d) to ensure a variety of lots sizes that are compatible with existing land use and reflect land capability.

#### **32.2 Without development consent**

Development for the purpose of:

- agriculture (other than animal establishments)
- bush fire hazard reduction
- forestry
- home occupations

Exempt development

#### **32.3 Only with development consent**

Development not included in item 32.2, 32.4 or 32.5.

### **32.4 Only with development consent—advertised development**

Development for the purpose of:

- educational establishments
- institutions
- medical centres
- recreation establishments
- refreshment rooms
- rural tourist facilities
- veterinary hospitals

### **32.5 Prohibited**

Development for the purpose of:

- abattoirs
- airfields
- amusement parlours
- animal establishments
- boarding houses
- brothels
- bulky goods showrooms
- bulk stores
- caravan parks
- car repair stations
- cemeteries and crematoriums
- clubs
- commercial premises
- drive-in theatres
- extractive industries



- generating works
- goods transport terminals
- helipads
- heliports
- hospitals
- industries (other than home industries)
- licensed premises
- liquid fuel depots
- liquor outlets (other than those physically attached to and operated or to be operated as part of a convenience shop)
- markets
- materials recycling yards
- mines
- motels
- motor showrooms
- offensive or hazardous industries
- passenger transport terminals
- recreation facilities
- recreation vehicle areas
- residential flat buildings
- restricted premises
- sawmills
- service stations
- shops (other than convenience shops)
- stock and saleyards
- storage sheds
- temporary events

- tourist facilities
- transport depots
- warehouses

### **33 Zone No 1 (d) (Investigation Zone)**

The following table provides general zoning controls for Zone No 1 (d):  
Table

#### **33.1 Objectives of zone**

The objectives are:

- (a) to identify land which is to be investigated in respect of its suitability for rezoning, and
- (b) to ensure that development within the zone is compatible with the anticipated future development of the land, and
- (c) to ensure that development maintains the existing character of the locality and minimises disturbance to the scenic value of the landscape through clearing, earthworks, access roads and construction of buildings, and
- (d) to ensure that development does not create unreasonable or uneconomic demands, or both, for the provision or extension of public amenities or services.

#### **33.2 Without development consent**

Development for the purpose of:

- agriculture (other than animal establishments and plantings that will require the use of mechanised sprays)
- bush fire hazard reduction
- forestry
- home occupations

Exempt development

#### **33.3 Only with development consent**

Development for the purpose of:

- art and craft galleries
- bed and breakfast establishments

- communications facilities
- craft studios
- dwelling-houses
- home industries
- home offices
- public utility undertakings
- recreation areas
- recreation establishments
- recreation facilities
- roadside stalls
- rural industries ancillary to an existing use
- temporary events
- utility installations
- wholesale plant nurseries

#### **33.4 Only with development consent—advertised development**

Development for the purpose of:

- animal establishments
- caravan parks for non-permanent accommodation
- community facilities
- refreshment rooms
- retail plant nurseries
- service stations

#### **33.5 Prohibited**

Development not included in item 33.2, 33.3 or 33.4.

### **34 Zone No 1 (f) (Forestry Zone)**

The following table provides general zoning controls for Zone No 1 (f):  
Table

### **34.1 Objective of zone**

The objective is to allow forestry activities carried out by or on behalf of the Forestry Commission.

### **34.2 Without development consent**

Development for the purpose of:

- agriculture
- any building, work, place or land use authorised under the *Forestry Act 1916* (including any ordinarily ancillary or incidental development)
- bush fire hazard reduction
- home occupations

Exempt development

### **34.3 Only with development consent**

Development for the purpose of:

- extractive industries
- mines
- utility installations

### **34.4 Only with development consent—advertised development**

Nil.

### **34.5 Prohibited**

Development not included in item 34.2, 34.3 or 34.4.

## **35 Zone No 1 (r) (Riverlands Zone)**

The following table provides general zoning controls for Zone No 1 (r):  
Table

### **35.1 Objectives of zone**

The objectives are:

- (a) to encourage the use of the land for its optimum productive potential, and
- (b) to permit a range of activities that support the agricultural industries being conducted on the land and limit development that may, in the opinion of the

Council, reduce the agricultural production potential of the land, and

- (c) to discourage the fragmentation of rural land, and
- (d) to control development that may restrict the function of, or create a traffic hazard along, classified and other formed roads, and
- (e) to limit the development of non-agricultural uses, except those which will not be adversely affected by flooding.

### **35.2 Without development consent**

Development for the purpose of:

- agriculture (other than animal establishments)
- bush fire hazard reduction
- forestry
- home occupations

Exempt development

### **35.3 Only with development consent**

Development not included in item 35.2, 35.4 or 35.5.

### **35.4 Only with development consent—advertised development**

Development for the purpose of:

- abattoirs
- airfields
- animal establishments
- extractive industries
- industries (other than home, light or rural industries)
- helipads
- heliports
- mines
- recreation establishments
- service stations

### **35.5 Prohibited**

Development for the purpose of:

- amusement parlours
- boarding houses
- brothels
- bulky goods showrooms
- bulk stores
- caravan parks
- car repair stations
- cemeteries and crematoriums
- clubs
- commercial premises
- drive-in theatres
- generating works
- goods transport terminals
- hospitals
- institutions
- licensed premises
- liquor outlets (other than those physically attached to and operated or to be operated as part of a convenience shop)
- markets
- materials recycling yards
- medical centres
- motels
- motor showrooms
- offensive or hazardous industries
- passenger transport terminals

- recreation facilities
- recreation vehicle areas
- residential flat buildings
- restricted premises
- shops
- storage sheds
- tourist facilities (except boatsheds and boat landing facilities, marinas, playgrounds, water sport facilities and houseboats)
- warehouses

### 36 Subdivision and development in rural zones

- (1) Consent must not be granted to the subdivision of land within a zone shown in Column 1 of the Table to this subclause unless the area of each lot to be created is not less than the area shown opposite that zone in Column 2 of the table.

**Table**

<b>Column 1</b>	<b>Column 2</b>
<b>Zone</b>	<b>Minimum area</b>
No 1 (a) General Rural Zone	40 ha
No 1 (b) Agricultural Zone	20 ha (see Note 1 to this Table)
No 1 (c) Rural Residential Zone	0.2 ha (see Note 2 to this Table)
No 1 (d) Investigation Zone	40 ha
No 1 (r) Riverlands Zone	40 ha

**Note 1—**

See also subclause (2).

**Note 2—**

See also clause 40 (2) (e).

- (2) Notwithstanding subclause (1), consent may be granted to the subdivision of land within Zone No 1 (b), if the consent authority is satisfied the land will be used for the purpose of horticulture, where the area of each lot to be created is not less than 13 hectares and, before consent is granted, a plan of management and a financial feasibility report have been prepared that are to the satisfaction of the consent authority.

- (3) In determining an application to which subclause (2) applies, the consent authority shall consider the following matters:
- (a) any opinion from the Director-General of the Department of Agriculture regarding the area and quality of the land concerned and its potential horticultural productivity,
  - (b) the likely effects, both economic and otherwise, that the proposed subdivision will have on agricultural/horticultural industries in the area and the resources employed by or in connection with those industries,
  - (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,
  - (d) whether there are any reasonable alternatives to the proposed subdivision in the circumstances,
  - (e) the effect of the existence of, or potential to erect, a dwelling on the land concerned,
  - (f) the cumulative effect of similar proposals,
  - (g) the likelihood of the proposed lots remaining available for horticultural use,
  - (h) the adequacy of the water supply to the proposed lots.
- (4) Despite subclause (1), consent may be granted to the subdivision of land within Zone No 1 (a), 1 (b), 1 (c), 1 (d) or 1 (r) to create a lot of any size if the consent authority is satisfied that the lot will be used for a public utility undertaking within that zone and, in the opinion of the consent authority:
- (a) the lot has a satisfactory shape and frontage for that use, and
  - (b) the lot will not cause a traffic hazard or create or tend to create further ribbon development along a road.
- (5) Notwithstanding subclause (1), consent may be granted to a subdivision of land to adjust common boundaries between rural lots so as to create allotments that will be smaller than allowed by that subclause where:
- (a) the consent authority is satisfied that a more efficient land use can be achieved that is not significantly inconsistent with the objectives of the rural zones, and
  - (b) no additional lots or dwelling entitlements are created, and
  - (c) the proposed use of the lots would not conflict with the surrounding agricultural or other uses, and
  - (d) consideration has been given by the consent authority to the minimum lot sizes



contained in the Table to subclause (1) and in subclause (2), and

(e) no additional entitlement for subdivision is created pursuant to subclause (1) or (2).

(6) Nothing in this clause shall prohibit or restrict subdivision for any of the following purposes:

(a) the opening or widening of a public road,

(b) adjustments to common property boundaries where the area of the existing lots is unaltered,

(c) rectifying an encroachment on an existing lot.

### **37 Rural dwellings and rural dual occupancy**

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

(2) Consent may be granted to the erection of a dwelling-house on a parcel of land to which this clause applies only if erection of the dwelling-house will result in no more than one dwelling-house on the same parcel, unless provided otherwise by this Part.

(3) Consent may be granted to the erection of a dwelling-house on land to which this clause applies only if the land:

(a) contains a site that is, in the opinion of the consent authority, suitable for a dwelling-house and that is easily accessed from a public road at a point of entry that will not cause a traffic hazard, and

(b) is of a suitable shape and size for the on-site disposal of septic waste, as verified by absorption tests or more detailed professional assessment to the satisfaction of the consent authority, and

(c) has a site for the dwelling-house and access that are not subject to adverse flood hazards, and

(d) when used for the dwelling-house, will minimise conflict with adjoining uses, and

(e) has a site for the dwelling-house that is not subject to erosion or landslip.

(4) Consent may be granted to the erection of a dwelling-house on land to which this clause applies only if the land:

(a) consists of an allotment having an area equal to or greater than the area specified in the Table to clause 36 (1) for the zone in which the land is situated, or

(b) consists of an allotment that was lawfully created in accordance with clause 36 (2), or

- (c) consists of an allotment of any size that was lawfully created, or approved by the Council or consented to, before 27 March 1992 (the date of commencement of *Lismore Local Environmental Plan 1992*) and on which the dwelling-house could have been lawfully erected immediately before that date, or
- (d) consists of an allotment consented to for use for residential purposes, in accordance with the provisions of *Lismore Local Environmental Plan 1992*, or
- (e) consists of an allotment created in accordance with paragraph (a), (b), (c) or (d), the boundaries of which have been subsequently altered:
  - (i) in accordance with clause 36 (5), or
  - (ii) through the opening or widening of a public road in accordance with the *Roads Act 1993*.
- (5) *State Environmental Planning Policy No 1—Development Standards* applies to subclause (4) (a) and (b) in the same way as it applies to a development standard.
- (6) A second dwelling-house may be erected on an allotment of land to which this clause applies, with consent, if:
  - (a) on or before the completion of the second dwelling-house the first dwelling-house on the allotment is demolished or rendered uninhabitable so that it is not able to be separately occupied as a dwelling-house, or
  - (b) the second dwelling-house is to be erected on land within Zone No 1 (c) or land listed in Schedule 4 with a purpose of rural residential subdivision listed in Column 2 of that Schedule and the consent authority is satisfied that:
    - (i) both dwellings have the same vehicular access from a public road, and
    - (ii) the second dwelling-house is located wholly within a radius of 80 metres from the first dwelling-house, and
    - (iii) the land is physically suitable for the construction of two dwelling-houses, and
    - (iv) the land is physically capable of accommodating effluent disposal areas for both dwelling-houses.
- (7) Where, in accordance with this clause, development for the purpose of a dwelling-house may be carried out on an allotment of land, a person may, with development consent:
  - (a) erect a dual occupancy building on the allotment, or
  - (b) alter or add to a dwelling-house erected on the allotment so as to create a dual occupancy building.

### **38 Caretaker's residence**

Consent may be granted to the erection on an allotment of land of a caretaker's residence which is ancillary to a use of land (other than for agriculture, forestry, a dwelling-house or a rural worker's dwelling) for which development consent has been granted, provided the consent authority is satisfied that:

- (a) the caretaker's residence is necessary for the security and/or supervision of the principal use of the land, and
- (b) the principal use of the land has been established or is being established, and
- (c) where the principal use of the land involves a building, the caretaker's residence is to be physically attached to or within the curtilage of such building, and
- (d) the land on which the caretaker's residence is to be erected satisfies the requirements of clause 37 (3) and a dwelling is permissible in accordance with the provisions of clause 37 (4).

### **39 Rural workers' dwellings**

- (1) This clause applies to land within Zone No 1 (a), 1 (b), 1 (d) or 1 (r).
- (2) Rural workers' dwellings may, with consent, be erected on a parcel of land to which this clause applies provided:
  - (a) each dwelling is on the same parcel of land as the principal farm dwelling and the principal farm dwelling is occupied by the landowner or manager or someone engaged in the operation of the farm, and
  - (b) each dwelling is to be occupied by a worker directly engaged in agricultural employment on that land, and
  - (c) the applicant demonstrates that the nature, scale and output of the agricultural enterprise generates enough income to support an employee who is to be housed in the dwelling, and
  - (d) evidence is provided showing how the employee will assist in the operation of the farm and that no alternative local labour or housing is likely to be available, and
  - (e) any other dwellings on that land are used by persons substantially engaged in agricultural employment on that land, and
  - (f) the erection of each dwelling will not significantly reduce the suitability of the land for agriculture or create conflict with adjoining land uses, and
  - (g) each dwelling shares the same access road as the principal farm dwelling.
- (3) A rural worker's dwelling may, with consent, be erected on a lot of land to which this

clause applies on which a rural worker's dwelling is already in existence only if the total number of rural workers' dwellings will not exceed one for each 40 hectares of land within Zone No 1 (a) or 1 (d) and one for each 20 hectares of land within Zone No 1 (b).

#### **40 Rural residential development**

- (1) This clause applies to land within Zone No 1 (c).
- (2) Consent must not be granted to a subdivision of land to which this clause applies if the consent authority is satisfied that the land will be used for rural residential development unless:
  - (a) the consent authority has had regard to the matters relating to environmental impact specified in Schedule 5, and
  - (b) the size and shape of each lot to be created and the range of proposed lot sizes are, in the opinion of the consent authority, satisfactory having regard to the land's capability and potential for conflicting uses, and
  - (c) arrangements satisfactory to the consent authority have been made for the provision of a water supply and the disposal of stormwater and sewage effluent, and
  - (d) arrangements satisfactory to the consent authority have been made to protect the environment, and
  - (e) the average area of all allotments to be created by the subdivision is not less than 0.5 hectare.
- (3) Consent must not be granted to a subdivision of land to which this clause applies if, as a result of the subdivision, the total number of allotments:
  - (a) that the consent authority is satisfied will be used for the purpose of dwellings, and
  - (b) that will have been created from land to which this clause applies in any of the successive 5-year periods following the commencement of this plan,will exceed the number specified in writing by the Council in respect of that period for the purposes of this clause with the approval of the Director.

#### **41 Development on ridgetops in rural areas**

- (1) This clause applies to land within Zone No 1 (a), 1 (b), 1 (c), 1 (d) or 1 (r).
- (2) Consent may be granted to the carrying out of development on land to which this plan applies on or near any ridgeline visible from any public road only if, in the opinion of the consent authority, the development is not likely to detract from the visual amenity

of the rural area and is in the community interest.

- (3) In determining whether to grant such a consent, the consent authority shall consider the following:
- (a) the height and location of any building that will result from carrying out the development,
  - (b) the reflectivity of materials to be used in carrying out the development,
  - (c) the likely effect of carrying out the development on the stability of the land,
  - (d) the bush fire hazard,
  - (e) whether landscaping proposals satisfactory to the consent authority have been made.
  - (f) (Repealed)

#### **42 Rural landsharing community development**

- (1) This clause applies to land within Zone No 1 (a) or 1 (c) that has been identified in the *Lismore Rural Housing Strategy* as being within a potential closer rural settlement locality.
- (2) Consent may be granted to development for the purpose of 3 or more dwellings (inclusive of any existing dwellings on the land) on land to which this clause applies if:
- (a) the land comprises a single allotment, and
  - (b) the land has an area of not less than 10 hectares, and
  - (c) the part of the land on which any dwelling or structure is to be situated does not have a slope in excess of 18 degrees, and
  - (d) not more than 25 per cent of the land consists of prime agricultural land, and
  - (e) the part of the land on which any structure or work is to be situated is not prime agricultural land, and
  - (f) the majority of the allotment is within an area identified as potentially suitable for rural landsharing community development in the *Lismore Rural Housing Strategy*, and
  - (g) the land is within 4 km by road of:
    - (i) a primary school, or
    - (ii) a shop, or

- (iii) a community hall, or
  - (iv) an existing rural landsharing community development where the number of approved dwellings exceeds 25, or
  - (v) 2 or more existing rural landsharing community developments where the total number of approved dwellings exceeds 25, and
  - (h) the land is within 2 km by road of an arterial, sub-arterial or collector road as identified on map 3 of Part B of the *Lismore Rural Housing Strategy*.
- (3) Consent must not be granted to development pursuant to this clause unless the consent authority has taken into consideration the following matters:
- (a) the means proposed for establishing land ownership, dwelling occupancy rights and environmental and community management,
  - (b) the area or areas proposed for the erection of buildings, including any proposal for the clustering of buildings,
  - (c) the area or areas proposed for community use (other than areas for residential accommodation and home improvement areas),
  - (d) the need for any proposed development for community use that is ancillary to the use of the land,
  - (e) the availability and standard of public road access to the land,
  - (f) the availability of a water supply to the land for domestic, agricultural and fire fighting purposes and, if required by the applicant, the availability of electricity and telephone services,
  - (g) the availability of community facilities and services to meet the needs of the occupants of the land,
  - (h) whether adequate provision has been made for waste disposal from the land,
  - (i) the impact of the development on the vegetation cover of the land and any measures proposed for environmental protection, site rehabilitation or reforestation,
  - (j) whether the land is subject to a risk of flooding, bush fires, landslip or erosion or whether there are areas with actual or potential acid sulfate soils and, if so, the adequacy of any measures proposed to protect occupants, buildings, internal access roads, service installations and land adjoining the development from any such hazard,
  - (k) the visual impact of the proposed development on the landscape,

- (l) the effect of the proposed development on the present and potential use, including agricultural use, of the land and of lands in the vicinity, including the need for separation and buffers to avoid conflicts with existing land use,
  - (m) the effect of the proposed development on the quality of the water resources in the vicinity,
  - (n) the impact on any known Aboriginal relics or sites,
  - (o) the impact of the proposed development on any heritage item, relic or site.
- (4) Consent must not be granted to development pursuant to this clause unless the consent authority has considered an environmental management plan for the development that makes comprehensive proposals for the following:
- (a) water management,
  - (b) waste management,
  - (c) prevention, control and management of soil erosion,
  - (d) bush fire management,
  - (e) management of flora and fauna, control of noxious weeds and noxious animals and environmental repair and enhancement measures,
  - (f) a communal plan for social organisation,
  - (g) provision and maintenance of internal roads, boundary fences, water reticulation, service corridors for telephone and electricity cables and similar matters.
- (5) Consent must not be granted to development pursuant to this clause of land with an area specified in Column 1 of the Table to this subclause unless the number of proposed dwellings on the land, together with any existing dwellings on the land, does not exceed the number calculated in accordance with the formula specified in Column 2 of the Table to this subclause for land with that area.

**Table**

**Column 1**

**Column 2**

**Area of land**

**Number of dwellings where A represents the area of the land the subject of the application (measured in hectares)**

Not less than 10 hectares but not more than 210 hectares

$$4 + \frac{(A - 10)}{4}$$

More than 210 hectares but not more than 360 hectares  $54 + \frac{(A - 210)}{6}$

More than 360 hectares 80

- (6) If the number of dwellings calculated in accordance with the formula in subclause (5) includes a fraction, the number is to be rounded up to the nearest whole number in the case of a fraction of one-half or more, or rounded down to the nearest whole number in the case of a fraction of less than one-half.
- (7) Even if the number of proposed dwellings on the land, together with any existing dwellings on the land, does not exceed the maximum number of dwellings permitted by subclause (5), the consent must not be granted if those dwellings are so designed that they could, in the consent authority's opinion, reasonably accommodate more people than the number calculated by multiplying that maximum number of dwellings by 4.
- (8) Where development is carried out on land pursuant to this clause, the subdivision of that land is prohibited except where otherwise permitted under clause 36.
- (9) In this clause:

***Lismore Rural Housing Strategy*** means the *Lismore Rural Housing Strategy* dated February 2002 and deposited in the office of the Council.

#### **42A Restriction on number of dwellings that may be created under clause 42**

Consent must not be granted to development for the purpose of dwellings pursuant to clause 42 if the total of the number of dwellings created during a 10 year period in accordance with such consents would exceed the maximum number specified by the Council and agreed to by the Director-General.

#### **43 (Repealed)**

#### **44 Safety area**

- (1) This clause applies to land situated on Rifle Range Road, Tuncester, shown horizontally hatched on the map.
- (2) Notwithstanding any other provision of this plan, consent must not be granted to the erection or use of any building for any purpose on land to which this clause applies.

#### **45 Water catchment and inundation area for proposed dam near Dunoon**

- (1) This clause applies to land near Dunoon shown edged with a heavy black broken line on the map (being the water catchment for the Dunoon dam).
- (2) Consent must not be granted to any development on land to which this clause applies



without the concurrence of Rous Water.

- (3) Despite subclause (2), the concurrence of Rous Water is not required for development for the purpose of a dwelling-house unless the development is to be carried out on land shown hatched on the map (being the land to be inundated by the Dunoon dam).
- (4) In deciding whether to grant concurrence required by this clause, the Rous Water must take into consideration the following matters:
  - (a) any potential adverse impact on the water quality within the catchment that may result from the development,
  - (b) any potential incremental adverse impacts on water quality that may result from the development,
  - (c) whether adequate safeguards and other measures have been proposed to protect the water quality,
  - (d) whether the proposed development would detrimentally affect the future construction of any dam,
  - (e) whether the proposed development would be more suitably undertaken on an alternative site.
- (5) The owner of land shown hatched on the map and located within the Dunoon dam catchment may, by notice in writing require Rous Water to acquire that land.
- (6) On receipt of such a notice, Rous Water must acquire the land to which the notice relates.

#### **46 Bed and breakfast establishments in rural zones**

- (1) This clause applies to land within Zone No 1 (a), 1 (b), 1 (c), 1 (d) or 1 (r).
- (2) A person must not carry out development for the purpose of a bed and breakfast establishment on land to which this clause applies if there is vehicular access to or egress from the land, directly to or from the Bruxner Highway or Bangalow Road and the speed limit at the point of direct vehicular access or egress is more than 80 km/h.
- (3) (Repealed)

#### **47 (Repealed)**

### **Division 2 Residential zones**

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

The following table provides general zoning controls for Zone No 2 (a):  
Table

#### **48.1 Objectives of zone**

The objectives are:

- (a) to encourage a wide range of housing densities and types to ensure maximum utilisation of infrastructure and equitable distribution of housing densities, and
- (b) to ensure the development of all land within the zone adequately provides for the demand for physical services and community facilities created by the additional population, and
- (c) to allow development for other than residential purposes, except where the scale, type and traffic-generating aspects of the development will significantly alter the landscaping, character or amenity of the surrounding residential area, and
- (d) to ensure the design quality of new development is compatible with the character of each residential area.

#### **48.2 Without development consent**

Development for the purpose of:

- bush fire hazard reduction
- home occupations

Exempt development

#### **48.3 Only with development consent**

Development not included in item 48.2, 48.4 or 48.5.

#### **48.4 Only with development consent—advertised development**

Development for the purpose of:

- agriculture
- caravan parks
- cemeteries
- child care establishments
- clubs
- communications facilities
- community facilities
- educational establishments

- hospitals
- medical centres with not more than three practitioners
- mobile home parks for permanent occupation
- motels
- places of assembly
- places of public worship
- recreation establishments
- refreshment rooms
- residential flat buildings
- retail plant nurseries
- veterinary hospitals
- wholesale plant nurseries

#### **48.5 Prohibited**

Development for the purpose of:

- abattoirs
- airfields
- airline terminals
- amusement parlours
- animal establishments
- art and craft galleries
- brothels
- bulky goods showrooms
- bulk stores
- bus depots
- bus stations
- car repair stations

- commercial premises
- convenience shops (except where located at a distance greater than 400 metres from an existing convenience shop, neighbourhood shopping centre or commercial centre)
- craft studios
- crematoriums
- drive-in theatres
- extractive industries
- generating works
- goods transport terminals
- helipads
- heliports
- industries (other than home industries)
- institutions
- licensed premises
- liquid fuel depots
- liquor outlets (other than those physically attached to and operated or to be operated as part of a convenience shop)
- markets
- materials recycling yards
- medical centres with more than 3 practitioners
- mines
- motor showrooms
- offensive or hazardous industries
- passenger transport terminals
- public buildings
- recreation facilities

- recreation vehicle areas
- restricted premises
- roadside stalls
- rural tourist facilities
- sawmills
- service stations
- shops
- stock and saleyards
- storage sheds
- temporary events
- tourist facilities (other than motels)
- transport depots
- warehouses

#### **49 Zone No 2 (f) (Residential (Flood Liable) Zone)**

The following table provides general zoning controls for Zone No 2 (f):  
Table

##### **49.1 Objectives of zone**

The objectives are:

- (a) to allow existing residential use to continue and to permit the establishment of new residential dwellings, where the design and siting will minimise the risk of flooding, and
- (b) to minimise the adverse effects of flooding on existing development, and
- (c) to encourage the development of the river corridor and surrounds for recreational purposes compatible with flooding, and
- (d) to minimise the impact of non-residential development on the amenity of existing residences in the locality.

##### **49.2 Without development consent**

Development for the purpose of:

- agriculture (other than animal establishments)
- bush fire hazard reduction
- forestry
- home occupations

Exempt development

#### **49.3 Only with development consent**

Development not included in item 48.2, 48.4 or 48.5.

#### **49.4 Only with development consent—advertised development**

Development for the purpose of:

- bulky goods showrooms
- bulk stores
- clubs
- light industries
- motor showrooms
- places of assembly
- places of public worship
- recreation facilities
- refreshment rooms
- service stations
- warehouses

#### **49.5 Prohibited**

Development for the purpose of:

- abattoirs
- airfields
- amusement parlours
- animal establishments

- boarding houses
- brothels
- caravan parks
- car repair stations
- cemeteries and crematoriums
- commercial premises
- drive-in theatres
- dual occupancies
- exhibition dwellings
- extractive industries
- generating works
- goods transport terminals
- helipads
- heliports
- hospitals
- industries (other than home and light industries)
- institutions
- licensed premises
- liquid fuel depots
- liquor outlets (other than those physically attached to and operated or to be operated as part of a convenience shop)
- markets
- materials recycling yards
- mines
- motels
- offensive or hazardous industries
- passenger transport terminals

- recreation establishments
- recreation vehicle areas
- residential flat buildings
- restricted premises
- roadside stalls
- rural industries
- rural tourist facilities
- sawmills
- shops (other than convenience shops)
- stock and saleyards
- storage sheds
- temporary events
- tourist facilities
- transport depots
- veterinary hospitals

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

The following table provides general zoning controls for Zone No 2 (v):  
Table

### **50.1 Objectives of zone**

The objectives are:

- (a) to retain the character of the rural villages, and
- (b) to provide for the development of a full range of rural village facilities in locations that are compatible with the character and amenity of each village, and
- (c) to ensure that adequate provision is made for water supply, effluent disposal, refuse disposal and community facilities, and
- (d) to control the location, form, character and density of development.

### **50.2 Without development consent**

Development for the purpose of:



- bush fire hazard reduction
- home occupations

Exempt development

### **50.3 Only with development consent**

Development not included in item 50.2, 50.4 or 50.5.

### **50.4 Only with development consent—advertised development**

Development for the purpose of:

- amusement parlours
- caravan parks
- educational establishments
- generating works
- hospitals
- industries (other than extractive, offensive or hazardous industries)
- licensed premises
- liquid fuel depots
- markets
- materials recycling yards
- recreation establishments
- recreation facilities
- storage sheds

### **50.5 Prohibited**

Development for the purpose of:

- abattoirs
- airfields
- animal establishments
- brothels

- caravan parks (unless connected to a reticulated sewerage system or sewage package treatment plant)
- cemeteries and crematoriums
- drive-in theatres
- extractive industries
- helipads
- heliports
- institutions
- mines
- mobile home parks for permanent occupation
- offensive or hazardous industries
- recreation vehicle areas
- restricted premises
- sawmills
- stock and saleyards

**51 Subdivision of land in Zones Nos 2 (a) and 2 (v)**

- (1) This clause applies to land within Zone No 2 (a) or 2 (v).
- (2) Consent must not be granted to subdivision of land to which this clause applies unless the consent authority has had regard to the matters relating to environmental impact specified in Schedule 5.
- (3) If the land is within Zone No 2 (a), consent must not be granted to the subdivision of land unless:
  - (a) each separate lot of land to be created by the subdivision has an area of not less than 400 square metres, and
  - (b) arrangements satisfactory to the consent authority have been made for the provision of a reticulated water supply, an electricity supply and disposal of stormwater and sewage effluent on each lot to be created, and
  - (c) the consent authority is satisfied that the number of lots to be created by the subdivision has been maximised, having regard to the matters listed in Schedule 5.

- (4) Despite subclause (3) (a), consent may be granted to the subdivision of land so as to create a lot with an area of less than 400 square metres if the plan of the proposed subdivision:
- (a) contains a restriction as to user under section 88E of the *Conveyancing Act 1919* that limits the erection of a residential flat building on the lot (not being a lot intended to dedicate land as a public road) to such part of the lot as may be determined by the consent authority, or
  - (b) relates to subdivision, under the *Strata Schemes (Freehold Development) Act 1973* or *Strata Schemes (Leasehold Development) Act 1986*, of an existing building.

## **52 Subdivision of land in Zone No 2 (f)**

Consent must not be granted to the subdivision of land within Zone No 2 (f) to create an allotment where the consent authority is of the opinion that a dwelling-house is intended to be erected on the allotment to be created by the subdivision.

## **53 Dwellings and dual occupancies in urban areas**

- (1) The clause applies to land within Zone No 2 (a) or 2 (v).
- (2) Consent may be granted for the erection of a dwelling-house on stable land only and not on land subject to erosion or landslip, unless the dwelling is suitably designed and the consent authority has considered a geotechnical report relating to the land, being a report considered adequate by the consent authority.
- (3) Development may be carried out on land to which this clause applies that results in 2 dwellings (whether or not attached) on the same allotment.

## **54 (Repealed)**

## **55 Caravan parks for permanent occupation**

- (1) This clause applies to all land within Zone No 2 (a) or 2 (v).
- (2) In determining an application for consent to the carrying out of development for the purpose of caravan parks for permanent occupation, the consent authority shall consider the following:
  - (a) the capability and suitability of the land for the intended use,
  - (b) the proximity of the land to a village or urban centre,
  - (c) the availability of a water supply to meet the needs of the proposed development,
  - (d) the availability of a sewerage system to meet the needs of the proposed development,

- (e) the provision for the disposal of stormwater,
- (f) the adequacy of the existing road system and the safety of the proposed access to the development,
- (g) the visual impact of the proposed development and the adequacy of any measures to reduce this impact.

#### **56 Excavating and filling of land in urban areas**

- (1) This clause applies to land within Zone No 2 (a), 2 (f) or 2 (v).
- (2) Despite any other provision of this plan, any excavation of land to which this clause applies to a depth exceeding one metre shall not be carried out without development consent.
- (3) Despite any other provision of this plan, any filling of land to which this clause applies shall not be carried out without development consent.

#### **57 Bed and breakfast establishments in urban areas**

- (1) This clause applies to land within Zone No 2 (a), 2 (f) or 2 (v).
- (2) A person must not carry out development for the purpose of a bed and breakfast establishment on land to which this clause applies if there is vehicular access to or egress from the land, directly to or from the Bruxner Highway or Bangalow Road and the speed limit at the point of direct vehicular access or egress is more than 80 km/h.
- (3) (Repealed)

### **Division 3 Commercial zones**

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

The following table provides general zoning controls for Zone No 3 (a):  
Table

##### **58.1 Objectives of zone**

The objectives are:

- (a) to encourage the development and expansion of retail, commercial and professional activities which strengthen the City's role as a regional centre, and
- (b) to ensure that adequate provision is made for car parking, and
- (c) to encourage facilities which minimise the adverse effects of flood.

### **58.2 Without development consent**

Development for the purpose of:

- bush fire hazard reduction
- home occupations

Exempt development

### **58.3 Only with development consent**

Development not included in item 58.2, 58.4 or 58.5.

### **58.4 Only with development consent—advertised development**

Development for the purpose of:

- amusement parlours
- generating works
- markets
- residential flat buildings (but only if part of the building is used for a commercial purpose that is permitted with development consent)
- restricted premises

### **58.5 Prohibited**

Development for the purpose of:

- abattoirs
- airfields
- animal establishments
- brothels
- caravan parks
- cemeteries and crematoriums
- drive-in theatres
- dwellings (other than those physically attached to or used in conjunction with buildings or uses allowed with development consent)
- exhibition dwellings

- extractive industries
- helipads
- heliports
- industries (other than home and light industries)
- liquid fuel depots
- materials recycling yards
- mines
- offensive or hazardous industries
- recreation vehicle areas
- rural tourist facilities
- sawmills
- stock and saleyards
- storage sheds

### **59 Zone No 3 (b) (Neighbourhood Business Zone)**

The following table provides general zoning controls for Zone No 3 (b):  
Table

#### **59.1 Objectives of zone**

The objectives are:

- (a) to accommodate, in convenient locations, a limited range of retail and commercial activities and community facilities where the scale and type of development is appropriate to the needs of the neighbourhood and is compatible with the amenity of the surrounding neighbourhood, and
- (b) to ensure that neighbourhood services do not detract from the service role of other commercial centres, and
- (c) to restrict office development to small scale development designed to meet the needs of the district.

#### **59.2 Without development consent**

Development for the purpose of:

- bush fire hazard reduction

- home occupations

Exempt development

### **59.3 Only with development consent**

Development not included in item 59.2, 59.4 or 59.5.

### **59.4 Only with development consent—advertised development**

Development for the purpose of:

- generating works
- markets
- refreshment rooms (over 150 square metres in floor area)
- residential flat buildings (but only if part of the building is used for a commercial purpose that is permitted with development consent)

### **59.5 Prohibited**

Development for the purpose of:

- abattoirs
- airfields
- amusement parlours
- animal establishments (other than pet shops)
- brothels
- caravan parks
- cemeteries and crematoriums
- drive-in theatres
- dwellings (other than physically attached to or used in conjunction with buildings or uses allowed with development consent)
- exhibition dwellings
- helipads
- heliports
- industries (other than home and light industries)

- liquid fuel depots
- materials recycling yards
- mines
- offensive or hazardous industries
- recreation vehicle areas
- restricted premises
- rural tourist facilities
- sawmills
- stock and saleyards
- storage sheds

## **60 Zone No 3 (f) (Services Business (Flood Liable) Zone)**

The following table provides general zoning controls for Zone No 3 (f):  
Table

### **60.1 Objectives of zone**

The objectives are:

- (a) to encourage the establishment and development of businesses that require direct vehicular access, and
- (b) to allow the development of services, businesses and light industries that support the business, industrial, rural and tourism activities of the City and the region, and
- (c) to encourage facilities (not being shops) which are not adversely affected by flooding.

### **60.2 Without development consent**

Development for the purpose of:

- bush fire hazard reduction
- home occupations

Exempt development

### **60.3 Only with development consent**

Development not included in item 60.2, 60.4 or 60.5.



#### **60.4 Only with development consent—advertised development**

Development for the purpose of:

- amusement parlours.
- markets

#### **60.5 Prohibited**

Development for the purpose of:

- abattoirs
- airfields
- animal establishments
- brothels
- caravan parks
- cemeteries and crematoriums
- drive-in theatres
- dwellings (other than where physically attached to and used in conjunction with buildings or uses allowed with development consent)
- exhibition dwellings
- extractive industries
- forestry
- generating works
- helipads
- heliports
- hospitals
- industries (other than light industries)
- liquid fuel depots
- materials recycling yards
- mines
- offensive or hazardous industries

- recreation vehicle areas
- residential flat buildings
- restricted premises
- roadside stalls
- rural industries
- rural tourist facilities
- sawmills
- shops
- stock and saleyards
- storage sheds
- tourist facilities

#### **61 Excavating and filling of land in business areas**

- (1) This clause applies to land within Zone No 3 (a), 3 (b) or 3 (f).
- (2) Despite any other provision of this plan, any excavation of land to which this clause applies to a depth exceeding one metre shall not be carried out without development consent.
- (3) Despite any other provision of this plan, any filling of land to which this clause applies shall not be carried out without development consent.

#### **62 (Repealed)**

##### **62A Neighbourhood shopping centre, Ballina Road and Holland Street, Goonellabah**

- (1) This clause applies to Lot 21, DP 835735, at the southeastern corner of Ballina Road and Holland Street, Goonellabah, as shown edged heavy black and lettered "3 (b)" on the map marked "*Lismore Local Environmental Plan 2000 (Amendment No 3)*".
- (2) The Council must not consent to an application to carry out development for the purpose of a neighbourhood shopping centre on the land to which this clause applies unless:
  - (a) the centre contains no more than 1,500 square metres gross leasable floor space, and
  - (b) a landscaped buffer area is provided at the southern boundary of the site between the development and adjoining dwellings.

## **Division 4 Industrial zones**

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

The following table provides general zoning controls for Zone No 4 (a):  
Table

#### **63.1 Objectives of zone**

The objectives are:

- (a) to provide sufficient land in suitable locations for a broad range of industrial uses, and
- (b) to ensure the efficient use of industrial land, and
- (c) to allow non-industrial uses which are ancillary to industry (such as the retail sale of bulky goods) and other non-industrial uses that do not significantly affect the existing or potential viability of industry in the area, and
- (d) to ensure that development does not adversely affect the flooding characteristics of the area or increase the hazard of flooding on adjoining land.

#### **63.2 Without development consent**

Development for the purpose of:

- bush fire hazard reduction
- home occupations

Exempt development

#### **63.3 Only with development consent**

Development not included in item 63.2, 63.4 or 63.5.

#### **63.4 Only with development consent—advertised development**

Development for the purpose of:

- abattoirs
- amusement parlours
- brothels
- bulky goods showrooms
- clubs

- communications facilities
- crematoriums
- educational establishments
- extractive industries
- licensed premises
- markets
- offensive or hazardous industries
- places of assembly
- places of public worship
- restricted premises

### **63.5 Prohibited**

Development for the purpose of:

- airfields
- animal establishments
- boarding houses
- caravan parks
- cemeteries
- drive-in theatres
- dual occupancies
- dwelling-houses (other than those used in conjunction with an industrial use and situated on the same land as that industry)
- exhibition dwellings
- helipads
- heliports
- hospitals
- institutions
- mines

- motels
- residential flat buildings
- recreation vehicle areas
- roadside stalls
- rural tourist facilities
- shops (other than those necessary to service an industrial estate)
- stock and saleyards

#### **64 Excavating and filling of land in industrial areas**

- (1) This clause applies to land within Zone No 4 (a).
- (2) Despite any other provision of this plan, any excavation of land to which this clause applies to a depth exceeding one metre shall not be carried out without development consent.
- (3) Despite any other provision of this plan, any filling of land to which this clause applies shall not be carried out without development consent.

### **Division 5 Special Uses and Recreation zones**

#### **65 Zone No 5 (Special Uses Zone)**

The following table provides general zoning controls for Zone No 5:

##### **65.1 Objectives of zone**

The objectives are:

- (a) to designate land which is now used or is intended to be used for particular public or community purposes, and
- (b) to ensure the land is used for a purpose appropriate to its location, community needs and economic utilisation.

##### **65.2 Without development consent**

Development for the purpose of:

- bush fire hazard reduction
- home occupations

Exempt development

### **65.3 Only with development consent**

Development for any public purpose

Development for the purpose of:

- roads
- the particular use indicated by black lettering on the map

### **65.4 Only with development consent—advertised development**

Development not included in item 65.2, 65.3 or 65.5.

### **65.5 Prohibited**

Development for the purpose of:

- brothels.

## **66 Zone No 5 (b) (Special Uses (Technology Park) Zone)**

The following table provides general zoning controls for Zone No 5 (b):

### **66.1 Objectives of zone**

The objectives are:

- (a) to provide a high quality workplace that is related to the discovery, research and development of natural products, and
- (b) to encourage development of services and facilities that will transform research into commercial undertakings, and
- (c) to provide facilities and services that will foster research and responsive technology, and
- (d) to encourage facilities that will not adversely affect the natural environment, and
- (e) to provide for other community facilities that will complement the technology park.

### **66.2 Without development consent**

Development for the purpose of:

- agriculture
- bush fire hazard reduction
- environmental facilities
- home occupations

- works for the purpose of landscaping

Exempt development

### **66.3 Only with development consent**

Development not included in item 66.2, 66.4 or 66.5.

### **66.4 Only with development consent—advertised development**

Development for the purpose of:

- amusement parlours
- boarding houses
- caravan parks
- child care establishments
- clubs
- extractive industry
- generating works
- helipads
- liquor outlets
- markets
- road transport terminals

### **66.5 Prohibited**

Development for the purpose of:

- abattoirs
- airfields
- airline terminals
- animal establishments
- brothels
- car repair stations
- helipads

- heliports
- junk yards
- liquid fuel depots
- mines
- motor showrooms
- restricted premises
- sawmills
- service stations
- stock and saleyards

## **67 Zone No 6 (a) (Recreation Zone)**

The following table provides general zoning controls for Zone No 6 (a):  
Table

### **67.1 Objectives of zone**

The objectives are:

- (a) to ensure access by the general public to adequate open space to meet the needs of all residents and provide opportunities to enhance the quality of the total environment of the City of Lismore, and
- (b) to allocate land which will adequately provide both active and passive open space to service the present and future recreational needs of residents and visitors, and
- (c) to manage flora and fauna on public open space.

### **67.2 Without development consent**

Development for the purpose of:

- environmental facilities
- works for the purposes of gardening, landscaping or bush fire hazard reduction

Exempt development

### **67.3 Only with development consent**

Development for the purpose of:

- agriculture



- child care establishments
- community facilities
- recreation areas
- temporary events
- utility installations

#### **67.4 Only with development consent—advertised development**

Development for the purpose of:

- art and craft galleries
- caravan parks
- clubs
- craft studios
- markets
- passenger transport terminals
- places of assembly
- refreshment rooms

#### **67.5 Prohibited**

Development not included in items 67.2, 67.3 or 67.4.

### **68 Zone No 6 (b) (Private Recreation Zone)**

The following table provides general zoning controls for Zone No 6 (b):  
Table

#### **68.1 Objective of zone**

The objective is to permit a range of recreational and tourist activities on land in private ownership.

#### **68.2 Without development consent**

Development for the purpose of:

- bush fire hazard reduction
- environmental facilities

Exempt development

### **68.3 Only with development consent**

Development for the purpose of:

- agriculture
- art and craft galleries
- child care establishments
- community facilities
- craft studios
- dwelling-houses used in conjunction with another use listed in this item
- recreation areas
- recycling drop-off centres
- temporary events
- utility installations

### **68.4 Only with development consent—advertised development**

Development for the purpose of:

- animal saleyards
- caravan parks
- clubs
- educational establishments
- licensed premises
- markets
- passenger transport terminals
- places of assembly
- places of public worship
- recreation establishments
- recreation facilities

- refreshment rooms

### **68.5 Prohibited**

Development not included in item 68.2, 68.3 or 68.4.

### **69 “Cellulose Valley” Technology Park**

- (1) This clause applies to Lot 1 DP 772604, Lot 1 DP 772605, Lot 1 DP 118533 and Lots 471, 472, 473 and 474 DP 775718, being land generally bounded by Crawford, Military and Skyline Roads, East Lismore.
- (2) Consent must not be granted to development of the land to which this clause applies for the purpose of a Technology Park unless the consent authority is satisfied that:
  - (a) all existing trees within the subject site that serve as koala habitat will be retained or, if there is no alternative to removal, each will be replaced on the site with suitable koala habitat species at a ratio of 50 replacement trees for every tree removed, and
  - (b) koala movement within and between that koala habitat will be facilitated, and
  - (c) existing koala habitat will be restored and enhanced, and
  - (d) measures will be taken to reduce the chances of native animal road kill on roads within the subject site and on those roads where additional traffic will be generated as a result of the development, and
  - (e) measures will be taken to restrict access to the site by dogs, including signs to discourage the walking of dogs, and
  - (f) any additional requirements of a Koala Management Plan applying to the site that has been approved by the Council will be taken into account, and
  - (g) appropriate measures will be taken to ameliorate impacts of development on the Wallum Froglet, should it be found to occur on the site.
- (3) For the purposes of this clause, the trees to which this plan applies which serve as koala habitat include forest Red gum (*Eucalyptus tereticornis*), Grey Ironbark (*E. siderophloia*), White Mahogany (*E. acmenoides*), Tallowwood (*E. microcorys*), Brush Box (*L. confertus*) and Forest Oak (*A. torulosa*).

### **69A Lismore “Art in the Heart” Project**

- (1) This clause applies to Lot 14, DP 867281, (150 Keen Street) and Lot 11, DP 859167, (126 Magellan Street), Lismore, as shown edged heavy black on the map marked “*Lismore Local Environmental Plan 2000 (Amendment No 9)*”, deposited in the office of the Lismore City Council.

- (2) The objectives of this clause are to identify a range of uses proposed for the “Art in the Heart” project and to facilitate their development on the land to which this clause applies.
- (3) The “Art in the Heart” project may comprise arts and cultural activities, development for the purposes of education, tourism, retail and information technology, commercial and economic development, and residential development, as well as the continued use of part of the land for public car parking.
- (4) The Council must not grant consent to development on land to which this clause applies unless it has first taken into consideration the master plan adopted by the Council and applying to the land.
- (5) The master plan is to co-ordinate and guide development on the land and is to include the following matters:
  - (a) distribution of land uses, including identification of areas for community, arts, commercial, residential and car parking uses,
  - (b) the conservation of the heritage significance of heritage items located on the land and in its vicinity,
  - (c) the location of new buildings,
  - (d) urban and building design guidelines to include measures to complement existing heritage buildings, public safety, solar access and energy efficiency, height, form, setbacks and scale of new buildings, colour and appearance,
  - (e) pedestrian access to and through the site,
  - (f) internal road systems, parking and the retention (and possible expansion) of the public car park with a minimum of 313 spaces,
  - (g) provision of public open space, including retention of trees,
  - (h) potential view corridors to and through the site,
  - (i) acknowledgement of flood effects and identification of appropriate flood compatible uses in accordance with Council’s Flood Plain Risk Management Plan,
  - (j) implementation or staging (or both),
  - (k) any other matter required by the Council.
- (6) A draft master plan must be publicly exhibited by the Council for not less than 28 days. At the end of that period, the Council must consider any submissions made about the draft master plan.
- (7) A draft master plan becomes a master plan if it is adopted by the Council with or

without alterations made in response to submissions.

- (8) A master plan may be amended or revoked by a master plan prepared exhibited and adopted in accordance with this clause.
- (9) Despite any other provision of this plan, the Council may grant consent to development for additional commercial uses on the land if it has taken into consideration whether the uses are consistent with the master plan applying to the land and are complementary to development for the purposes of the arts, cultural activities, education and tourism and economic development carried out on the land.

## **70 Acquisition of land**

- (1) This clause applies to land within Zone No 5 or 6 (a).
- (2) The owner of any land to which this clause applies zoned as specified in Column 1 of the Table to this subclause may, by notice in writing, require the body specified in Column 2 of the Table opposite that zoning to acquire that land.

### **Table**

<b>Column 1</b>	<b>Column 2</b>
Special Uses (Main Road)	RTA
Special Uses (University)	Southern Cross University
Recreation Zone	Council

- (3) On receipt of such a notice, the Council or the Southern Cross University must acquire the land to which the notice relates.
- (4) The Council shall not be required to acquire land the subject of a notice referred to in subclause (2) where the land is required to be dedicated to the Council as a condition of development consent imposed in accordance with section 94 of the Act.
- (5) The RTA, on receipt of a notice referred to in subclause (2), must acquire land zoned Special Uses (Main Road) if:
  - (a) the land is vacant, or
  - (b) the land is not vacant, but:
    - (i) the land is included in the 5-year works program of the RTA current at the time of receipt of the notice, or
    - (ii) the RTA has decided not to give concurrence under clause 72 (2) to an application for consent to the carrying out of development on the land, or
    - (iii) the RTA is of the opinion that the owner of the land will suffer hardship if the

land is not acquired within a reasonable time,

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

- (6) Land acquired under this clause may be developed, with development consent, for any purpose, until such time as it is required for the purpose for which it was acquired.
- (7) In this clause and clause 72:

**RTA** means the Roads and Traffic Authority constituted under the *Transport Administration Act 1988*.

**vacant land** means land on which, immediately before the day on which a notice under subclause (2) is given, there were no buildings, other than fences.

#### **71 Acquisition of land within Zone No 6 (a)—effect of rezoning**

- (1) The Council need not take any action under clause 70 with respect to acquiring land within Zone No 6 (a) for 90 days (or for such other period as may be agreed between the owner and the Council before that period expires) after receiving a notice under that clause, if the Council, within 14 days after receiving the notice, notifies the owner that it is reviewing the zoning of the land.
- (2) The Council need not acquire the land pursuant to the notice if the land is rezoned, or the Council decides or has decided to prepare a local environmental plan to rezone the land, before the period of 90 days (or the agreed period) expires.

#### **72 Use of land pending acquisition**

- (1) Land to which clause 70 applies, other than land zoned Special Uses (Main Road), may be developed for any purpose, with development consent granted with the concurrence of the body specified as being required to acquire the land, prior to its acquisition by the body concerned.
- (2) A person may, with development consent granted with the concurrence of the RTA, carry out development on land zoned Special Uses (Main Road):
  - (a) for a purpose for which development may be carried out on land in an adjoining zone, or
  - (b) for any other purpose that is compatible with development which may be carried out in an adjoining zone.
- (3) In deciding whether to grant concurrence to proposed development under this clause, the RTA or other body concerned must take the following into consideration:
  - (a) the need to carry out development on the land for the purpose for which the land is reserved,

(b) the imminence of acquisition,

(c) the likely additional cost to the RTA or other body resulting from the carrying out of the proposed development.

### **73 Community use of special use or recreation land**

(1) This clause applies to all land within Zone No 5, 6 (a) or 6 (b).

(2) Notwithstanding any other provision of this plan, consent may be granted to the use of land to which this clause applies, or to the use of buildings situated on any such land, for community purposes which may include the commercial operation of that land or those buildings.

### **74 Classification and reclassification of public land as operational land**

(1) Land described in Part 1 of Schedule 6 is land that was classified, or reclassified, as operational land before the application of the amendments made by the [Local Government Amendment \(Community Land Management\) Act 1998](#) to section 30 of the [Local Government Act 1993](#).

(2) Land described in Part 2 of Schedule 6:

(a) to the extent (if any) that the land is a public reserve, does not cease to be a public reserve, and

(b) continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants by which it was affected before its classification, or reclassification, as the case requires, as operational land.

(3) Land described in Columns 1 and 2 of Part 3 of Schedule 6, to the extent (if any) that it is a public reserve, ceases to be a public reserve on the commencement of the relevant amending plan and, by the operation of that plan, is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land except those specified opposite the land in Column 3 of Part 3 of Schedule 6.

(4) In this clause, **the relevant amending plan**, in relation to land described in Part 3 of Schedule 6, means the local environmental plan that inserted the description of land into that Part.

(5) Before the relevant amending plan inserted the description of land into Part 3 of Schedule 6, the Governor approved of subclause (3) applying to the land.

### **74A Classification and reclassification of public land as community land**

The public land described in Schedule 6A is classified, or reclassified, as community land for the purposes of the [Local Government Act 1993](#).

**75, 76 (Repealed)**

**Division 6 Environmental Protection zones**

**77 Zone No 7 (a) (Environment Protection (Natural Vegetation and Wetlands) Zone)**

The following table provides general zoning controls for Zone No 7 (a):  
Table

**77.1 Objectives of zone**

The objectives are:

- (a) to protect and preserve significant wetlands, and
- (b) to retain significant areas of unique natural vegetation, such as rainforest remnants, and
- (c) to prohibit development which could destroy or damage a wetlands ecosystem or rainforest.

**77.2 Without development consent**

Development for the purpose of:

- bush fire hazard reduction

Exempt development

**77.3 Only with development consent**

Development for the purpose of:

- agriculture
- earthworks
- environmental facilities
- roads
- utility installations (other than gas holders or generating works)

**77.4 Only with development consent—advertised development**

Nil.

**77.5 Prohibited**

Development not included in item 77.2 or 77.3.



## **78 Zone No 7 (b) (Environment Protection (Habitat) Zone)**

The following table provides general zoning controls for Zone No 7 (b):  
Table

### **78.1 Objective of zone**

The objective is to encourage the retention of wildlife habitats and associated vegetation and wildlife corridors.

### **78.2 Without development consent**

Development for the purpose of:

- bush fire hazard reduction
- home occupations

Exempt development

### **78.3 Only with development consent**

Development for the purpose of:

- agriculture
- dwelling-houses
- craft studios
- environmental facilities
- environmental protection works
- open space
- roads
- utility installations (other than gas holders or generating works)

### **78.4 Only with development consent—advertised development**

Development for the purpose of:

- bed and breakfast establishments in dwellings lawfully erected and used before the commencement of *Lismore Local Environmental Plan 2000 (Amendment No 10)*.

### **78.5 Prohibited**

Development not included in item 78.2, 78.3 or 78.4.

## 79 Zone No 8 (National Parks and Nature Reserves Zone)

The following table provides general zoning controls for Zone No 8:  
Table

### 79.1 Objective of zone

The objective is to identify land included in national parks and nature reserves.

### 79.2 Without development consent

Development for any purpose authorised under the [National Parks and Wildlife Act 1974](#)

Development for the purpose of:

- bush fire hazard reduction

### 79.3 Only with development consent

Nil.

### 79.4 Only with development consent—advertised development

Nil.

### 79.5 Prohibited

Development not included in item 79.2.

## Schedule 1 Heritage items

(Clause 12)

Map No	Property Title or Description	Address/ Location	Item (including the site unless otherwise specified)	Heritage Study Reference	Significance
1	Graham Centre	22 Woodlark Street, Lismore	Office Building and Former Bank	20016	State Built item
2	St Carthages Catholic Cathedral	6-8-10 Leycester Street, Lismore	Church	20022 40003	State Built item Conservation area Archaeological site
3	“Monaltrie”	451 Wyrallah Road, East Gundurimba	House and Grounds	20095 40008 10004 30156	State Built item Landscape item Archaeological site
4	The Lismore Clinic	185 Molesworth Street, Lismore	Medical Clinic	20003	Built item

5	Former Lismore Municipal Building	165 Molesworth Street, Lismore	Public Building	20005 40009	Built item Conservation area Archaeological site
6	Former Post Office	172 Molesworth Street (Cnr Magellan Street), Lismore	Post Office	20009 40009	Built item Conservation area Archaeological site
7	Lismore Uniting Church	116 Woodlark Street (Cnr Keen Street), Lismore	Church	20013	Built item
8	Former Boarding House (Gwalia Flats)	7 Coleman Street (Cnr Cambrian), Lismore	Boarding House	20014 40001	Built item Conservation area
9	St Andrews Anglican Church	8 and 14 Zadoc Street (Cnr Keen Street), Lismore	Church	20017 40001 30005	Built item Conservation area Landscape item
10	Former Church of Christ	178 Keen Street (Cnr Magallen Street), Lismore	Church	20019	Built item
11	St Pauls Presbyterian Church	188 Keen Street, Lismore	Church	20020	Built item
12	Former St Mary's Convent	5 Dawson St, Lismore	Convent	20023 40003	Built item Conservation area
13	Winsome Hotel	11 Bridge Street, North Lismore	Hotel	20024	Built item Archaeological site
14	"Trevallyn"	69 Cathcart Street, Lismore	House	20030 30143 40009	Built item Conservation area Landscape item
15	House	27 Bridge Street, Wyrallah	House	20031 30158	Built item Landscape item
16	"Ermello"	638 Ballina Road, Lindendale	House	20060	Built item
17	Disputed Plain Homestead	1014 Kyogle Road, Fernside	House and Site	20062	Built item Archaeological site
18	St Thomas Anglican Church	32 Fernside Road, Fernside	Church	20063 30020	Built item Landscape item
19	"Maybrook"	652 Eltham Road, Eltham	House	20068 30054	Built item Landscape item
20	Freemasons Hotel	53 and 53A Cullen Street, Nimbin	Hotel	20073 40010 40002	Built item Conservation area

21	St John's Presbyterian Church	11 Main Street, Clunes	Church	20074	Built item
22	"Wendela"	143 Rocky Creek Dam Road, Dunoon	House	20083 30082	Built item Landscape item
23	Woodlawn College	189 and 203 Woodlawn Road, North Lismore	School and grounds	20101 30097	Built item Landscape item
24	"Tulloona"	106 Ballina Road, Goonellabah	House	20108	Built item Archaeological site
25	Richmond River High School	89 Lake Street, North Lismore	School	20110 30186	Built item
26	Lismore Police Station	40 Molesworth Street, Lismore	Police Station	20001 40001	Built item Conservation area
27	Westpac Bank	65 Molesworth Street, Lismore	Bank	20002	Built item
28	Memorial Baths	179 Molesworth Street, Lismore	Swimming Pool and Entrance Pavilion	20004 40009	Built item Conservation area Archaeological site
29	Commonwealth Bank	180 Molesworth Street, Lismore	Bank	20008 40009	Built item Conservation area
30	The Lismore Club	9 and 9A Club Lane, Lismore	Club	20010 40014	Built item
31	Lismore Court House	9 Zadoc Street, Lismore	Court House	20015 40001	Built item Conservation area
32	Former Lismore High School	110 Magellan Street and 152 Keen Street, Lismore	School	20018 40012 20042	Built item
33	St Paul's Memorial Hall	190 Keen Street, Lismore	Hall	20021	Built item
34	Railway Station Platform Building	1/38 Union Street, South Lismore	Railway Station	20025 40006	Built item
35	Armstrong House "Kiaora"	83 Uralba Street (Cnr Dibbs Street), Lismore	Former Private Hospital	20026 30072	Built item Landscape item
36	"Clovelly"	13 Wyrallah Road, Girards Hill	House	20028 20105 40011	Built item Conservation area

37	House	42 Cathcart Street, Girards Hill	House	20029 40011	Built item Conservation area
38	House	312 Molesworth Street, East Lismore	House	20036	Built item
39	Station Hotel	2 Casino Street, South Lismore	Hotel	20038	Built item
40	Uniting Church Hall	118 Woodlark Street, Lismore	Hall	20041	Built item
41	Roy Waddell Community Centre	149 Richmond Hill Road, Richmond Hill	Former School	20065	Built item
42	House	511 Tuckurimba Road, East Coraki	House	20051	Built item
43	House	1129 Wyrallah Road, Tucki Tucki	House	20056	Built item
44	Glassware Gallery	264 Cowlong Road, McLeans Ridges	Former School	20066	Built item
45	Eltham Village Tea Room	445 Eltham Road, Eltham	Refreshment Room	20069	Built item
46	"Kembla"	40 Main Street, Clunes	House	20075 30049	Built item Landscape item
47	Clunes Coronation Hall	22 Walker Street, Clunes	Hall	20076	Built item
48	CWA Rooms	1/115 Molesworth Street (Spinks Park), Lismore	Community Centre	20078 40009	Built item Conservation area
49	Band Rotunda	3/115 Molesworth Street (Spinks Park), Lismore	Bandstand	20079 40009 30002	Built item Conservation area Archaeological site Landscape item
50	Former Bank	39 Cullen Street, Nimbin	Surgery	20084 40002 40010	Built item Conservation area
51	House	67A McPherson Road, Bexhill	House	20089	Built item
52	St Andrews Presbyterian Church	102 James Street, Dunoon	Church	20091 30088	Built item Landscape item

53	Former Govt Savings Bank	30 Woodlark Street, Lismore	Office Building	20103	Built item
54	"Cedarville"	27 Rayward Road, Dunoon	House	20107 30089	Built item Archaeological site Landscape item
55	St Andrews Anglican Ministry (Former Police Station)	17 Keen Street, Lismore	House	20121 40001 20001 20015 20137	Built item Conservation area Archaeological site
56	School	64 Conway Street, Lismore	School	20122	Built item
57	Barbeques Galore	68 Conway Street (Cnr Dawson St), Lismore	Commercial Building	20127	Built item
58	City Club Apparel	52 and 54 Newbridge Street, Lismore	Factory	20128	Built item
59	Public Trustees Office (Former Rectory)	6 Zadoc Street, Lismore	Office	20136	Built item Conservation area Archaeological site
60	"Cabarita"	2970 Wyrallah Road, Buckendoon	House	20140	Built item
61	Corndale Hall	556 Corndale Road, Corndale	Hall	20152	Built item
62	House	34 Cullen Street, Nimbin	House	20159	Built item Conservation area Archaeological site
63	Masonic Hall	5 and 5A Mayfield Street, Eltham	Hall	20143 22237	Built item Archaeological site
64	Lismore Cemetery	1, 9A, 9B and 9D Airforce Road, Lismore	Cemetery	30139 10033	Built item Landscape item Archaeological site
65	Boer War Memorial	4/115 Molesworth Street (Spinks Park), Lismore	War Memorial	30044 40009	Built item Conservation area Archaeological site
66	Coleman's Bridge	Leycester Creek, Lismore	Bridge	10027	Built item Archaeological site
67	Monaltrie Cemetery (Wilson Family Cemetery)	55 Monaltrie Road, Monaltrie	Cemetery	10004 40008 20095	Archaeological site Landscape item

68	Tucki Tucki Bora Ring	1305-1305B Wyrallah Road, Tucki	Bora Ring	10001	Archaeological site Landscape item
69	Cubawee Aborigines School Site	466 Kyogle Road, Tuncester	Former School Site	10002	Archaeological site
70	Norco Butter Factory	Union Street/ Foleys Road and Taylor Street, Lismore	Butter Factory	40007	Archaeological site
71	Boatharbour Nature Reserve and Jetty	623 and 624 Bangalow Road, Bexhill	Reserve and Wharf remains	10020	Archaeological site
72	Railway Wharf	Wilson's River adjacent to Union Street, South Lismore	Former Wharf	10022	Archaeological site
73	Railway Straight Carriage Shed	18, 20 and 30 Kyogle Street, South Lismore	Shed	10023 40006	Archaeological site
74	Engine Shed	7 Engine Street, South Lismore	Shed	10024 40006	Archaeological site
75	Fawcett's Bridge	Wilson's River, joining Bridge and Woodlark Sts, Lismore	Bridge	10026	Archaeological site
76	Bexhill Brickworks	56 Coleman Street, Bexhill	Former Brickworks	10031	Archaeological site Landscape item
77	Lismore Bowling Club	171A Molesworth Street, Lismore	Bowling Club	20129 40009 30002	Archaeological site Conservation area
78	Pioneer Cemetery and Memorial Rest Park	2 Nimbin Road, North Lismore	Cemetery and Aboriginal Bora Ring	10028	Archaeological site
79	Railway Viaduct	Terania Street, North Lismore	Viaduct	10017 40006	Archaeological site Landscape item
80	Railway Bridge	Wilson's Creek adjacent to Eltham Road, Eltham	Bridge	10014	Archaeological site
81	"Locheil"	1 Bouyon Street, North Lismore	House Interior	10003	Archaeological site

82	House	688A Eltham Road, Eltham	House	N/A	Built item Landscape item
83	"Ringby"	35 John Street, Girards Hill	House	N/A	Built item
84	Farm	312 Ridgewood Road, Rosebank	Dry Stone Wall	N/A	Landscape item
85	Former District Works Office	186 Molesworth Street, Lismore	Office	N/A	Built item Conservation area
86	Spinks Park	115 Molesworth Street, Lismore	Landscape (Gardens and setting)	30002	Landscape item Conservation area
87	Alphadale Cemetery	589 and 601 Ballina Road (Bruxner Highway), Lindendale	Cemetery	30193	Landscape item
88	Blakebrook School	417 Rosehill Road, Blakebrook	School Grounds	30196	Landscape item
89	Bungabee State Forest	Bordering Bice Road, Leycester, Back Creek Road, Bently and Cawolglia Road, Rock Valley, Blakebrook	State Forest	30070	Landscape item
90	Clunes Public School	19 Walker Street, Clunes	School Grounds	30047	Landscape item
91	Glebe Bridge	Richmond River, bridging Coraki Road, East Coraki	Lift Bridge	30041	Landscape item
92	Dunoon War Memorial	1/114 James Street, Dunoon	War Memorial and Surrounds	30087	Landscape item
93	Dunoon Cemetery	1271 Dunoon Road, Dunoon	Cemetery	30102	Landscape item
94	Dunoon Public School	65 and 65A James Street, Dunoon	Grounds	30104	Landscape item
95	Trees	Road reserve outside 612, 622 and 632 Skyline Road, Gundurimba	Trees	30113	Landscape item



96	Spinaze Park	686 Dunoon Road, Tullera	Park and Surrounds	30100	Landscape item
97	Modanville Public School	889 and 877 Dunoon Road, Modanville	Grounds	30101	Landscape item
98	Nimbin Showground	37 Cecil Street, Nimbin	Showground and Surrounds	30027	Landscape item
99	Nimbin Central School	71 Cullen Street, Nimbin	Grounds	30026	Landscape item
100	St Patrick's Church	92 and 96 Cullen Street, Nimbin	Grounds	30023	Landscape item
101	Nimbin Park	67 and 69 Cullen Street, Nimbin	Park and Surrounds	30022	Landscape item
102	Nimbin Cemetery	23 and 23A Nimbin Cemetery Road, Nimbin	Cemetery	30128	Landscape item
103	Nightcap Range and National Park	Terania, Whian Whian	Scenic Landscape	30108	Landscape item
104	Tucki Tucki Nature Reserve	11 Munro Wharf Road and 1497 Wyrallah Road, Tucki Tucki	Nature Reserve	30043	Landscape item
105	Whian Whian State Forest	Whian Whian	Scenic Landscape	30081	Landscape item
106	House	38 John Street, Girards Hill	House	N/A	Built item
107	Former Power Station	Lot 1, Section 1, DP 1691, 246 Union Street, South Lismore	Former Power Station	10030	Archaeological site
110	Uniting Church	1615-1615A Dunoon Road, Dunoon	Tree planting	30086	Landscape item
111	Grounds of Rainbow Power Company	7 Alternative Way, Nimbin	Grounds	30127	Landscape item
112	Nimbin Rocks	2345A Nimbin Road, Nimbin and 332 Lodge Road, Mountain Top	Views to rock formation	30012	Landscape item

## **Schedule 2 Heritage conservation areas**

(Clause 14)

Dalley Street Conservation Area	Map Sheet 116
Girards Hill Conservation Area	Map Sheet 117
St Andrews Conservation Area	Map Sheet 118
Spinks Park/Civic Precinct Conservation Area	Map Sheet 119
St Carthages Conservation Area	Map Sheet 120
Nimbin Conservation Area	Map Sheet 121

## **Schedule 3 Development with restricted access to roads in rural and environment protection zones**

(Clause 25 (2))

Development for the purpose of the following:

- art and craft galleries
- bulk stores
- caravan parks
- car repair stations
- clubs
- commercial premises
- educational establishments
- hospitals
- hotels
- industries (other than home or rural industries)
- institutions
- licensed premises
- liquid fuel depots
- material recycling yards
- mines
- motels

- passenger transport terminals
- places of assembly
- places of public worship
- recreation establishments
- refreshment rooms
- retail plant nurseries
- roadside stalls
- sawmills
- service stations
- stock and saleyards
- transport depots
- warehouses

## Schedule 4 Additional development on certain land

(Clause 28)

<b>Column 1</b> <b>Land</b>	<b>Column 2</b> <b>Purpose</b>	<b>Column 3</b> <b>Development standards or conditions</b>
Lot 1, DP 609846, as shown edged heavy black on the map marked " <i>Lismore Local Environmental Plan 2000</i> "	Development for the purpose of a motel	
Lot 3, DP 595145 and Lot 61, DP 262478, being Nos 162 and 166 Ballina Road, Goonellabah, as shown edged heavy black on the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 11)</i> "	Development for the purpose of a medical centre	No more than 8 practitioners
Lot 2, DP 830354, being No 254 Keen Street, Lismore, as shown edged heavy black on the map marked " <i>Lismore Local Environmental Plan 2000</i> "	Development for the purpose of the storage and retail sale of second-hand building materials	No demolition or manufacturing is to be carried out on site and use of the land for the purposes listed in Column 2 is limited to 8 a.m. to 5 p.m. on Mondays to Fridays and to 9 a.m. to 12.30 p.m. on Saturdays

Lot 42, DP 827203, being No 6  
Funnel Drive, Modanville, as  
shown edged heavy black on  
Sheet 2 of the map marked  
“*Lismore Local Environmental  
Plan 2000*”

Development for the purpose of  
shops

Lot 6, DP 549575, Bruxner  
Highway, Goonellabah, as shown  
edged heavy black on the map  
marked “*Lismore Local  
Environmental Plan 2000*”

Development for the purpose of a  
service station

Lot 1, DP 973151, 364A Eltham  
Road, Eltham

Rural residential subdivision to  
create a maximum of 9 rural  
residential lots in accordance with  
the master plan prepared by  
Newton Denny Chapelle dated  
May 2004 (a copy of which is  
deposited in the office of the  
Council) and adopted by the  
Council on 8 March 2005.

Consent must not be granted to the  
development unless the application is  
made within 3 years after the  
commencement of *Lismore Local  
Environmental Plan 2000  
(Amendment No 22)*.

Federation Drive must be upgraded to  
a 6-metre wide seal on an 8-metre  
formation from the property boundary  
to the intersection with Johnston  
Road. The upgrade is to be completed  
prior to the release of the subdivision  
certificate for any lot proposed.

Consent must not be granted unless  
arrangements satisfactory to the  
Council exist for the construction of a  
roundabout at the intersection of  
Dougan Road and Caniaba Road at no  
cost to the Council

Dougan Road is to be upgraded to a 6  
metre seal on 8 metre formation from  
the intersection with Caniaba Road to  
a suitable access point to proposed  
Lot 3 prior to the release of the  
subdivision certificate

Lot 1, DP 263257, Dougan Road,  
Caniaba

Subdivision to create 2 lots and a  
residue lot

The *Vegetation Rehabilitation Plan*  
prepared by PLACE Environmental  
dated July 2004, a copy of which is  
available at the office of the Council,  
is to be implemented prior to the  
release of the subdivision certificate

Lot 80, DP 1058639, 9 Livotto Drive, Richmond Hill	Rural residential subdivision to create 14 rural residential lots, having regard to the master plan prepared by Newton Denny Chapelle, May 2004 (a copy of which is deposited in the office of the Council).	Consent must not be granted to the development unless the application is made within 3 years after the commencement of <i>Lismore Local Environmental Plan 2000 (Amendment No 24)</i> .  Internal roads are to be constructed as a 6-metre wide seal with kerbing and guttering. The road construction is to be completed prior to the release of the subdivision certificate for any lot proposed.
Lot 4 DP 580081 and Lots 1, 2 and 6 DP 258403 Minshul Crescent, Tullera	Subdivision to create 17 allotments and development for the purpose of a dwelling on each allotment created by the subdivision	The consent authority must not grant consent for the development unless: (a) the application for consent was made within 2 years after the commencement of <i>Lismore Local Environmental Plan 2000 (Amendment No 17)</i> , and  (b) the consent authority is satisfied that: (i) the subdivision will be carried out in accordance with master plan 01/166 dated 5 August 2003, and  (ii) the intersection of Minshul Crescent and Dunoon Road has been upgraded by the developers (at the developers' expense) in accordance with the plan 01/166B dated 16 April 2003 submitted to the Council with the rezoning submission prepared by Newton Denny Chapelle (or will be so upgraded before the issue of any subdivision certificate for any subdivision).

## Schedule 5 Matters relating to environmental impact

(Clauses 10, 40 (2) (a) and 51 (2))

- 1 The objectives of the proposed development and how it relates to the objectives of this plan and the relevant zone.
- 2 The existing environment, including existing land use, slope, aspect, geology, soils, flood liability, vegetation, fauna and hydrology likely to be affected by the proposed development, if carried out.

- 3 The interaction between the proposed development and the natural and human made environment (for example, habitat, vegetation, open space, recreational system, drainage system, and road, bicycle and pedestrian movement systems).
- 4 The likely impact of the proposed development on the surrounding natural and human made environment, such as loss of agricultural land, impact on water resources and any land use conflicts and the means proposed to reduce any adverse impact (for example visual controls, stormwater controls, erosion controls, traffic controls and provision of community facilities).
- 5 Measures to be taken in conjunction with the proposed development to protect the environment and the assessment of the likely effectiveness of those measures.
- 6 Any likely increase in demand for facilities or services as a result of the development.
- 7 An assessment of the likely impact of the proposed development on people occupying the locality within which it will be carried out.
- 8 The likely effects of the proposed development on any Aboriginal cultural heritage or European heritage matters.

## **Schedule 6 Classification and reclassification of public land as operational land**

(Clause 74)

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

#### **East Lismore**

Industry Drive  
Part Lot 11, DP 548837, as shown edged heavy black on Sheet 4 of the map marked "*Lismore Local Environmental Plan 1992 (Amendment No 43)*".

#### **Goonellabah**

Windsor Court  
Part Lot 24, DP 730478, as shown edged heavy black on Sheet 1 of the map marked "*Lismore Local Environmental Plan 1992 (Amendment No 36)*".

#### **Lismore**

Brewster Street  
Lots 5-10, DP 436538, Lots 13-15, DP 8588, Lot 1, DP 368623, Lot 1, DP 368622 and Lot 6, DP 376908, located in the vicinity of Lismore Shopping Square, as shown edged heavy black on the map marked "*Lismore Local Environmental Plan 1992 (Amendment No 35)*".

Bruxner Highway  
Lot 111, DP 804466, known as 215 Bruxner Highway, as shown edged heavy black on Sheet 6 of the map marked "*Lismore Local Environmental Plan 1992 (Amendment No 25)*".

#### **North Lismore**



269 Ballina Road	Lot 1, DP 255414, as shown edged heavy black on Sheet 3 of the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 12)</i> "	Restriction as to user noted on Certificate of Title Folio Identifier 1/255414.
51 Deegan Drive	Lot 38, DP 255009, as shown edged heavy black on Sheet 3 of the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 12)</i> "	Nil.
15A Holland Street	Lot 69, DP 876840, as shown edged heavy black on Sheet 3 of the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 12)</i> "	Easement for sewerage purposes 3m wide (DP 876840) noted on Certificate of Title Folio Identifier 69/876840.
1 Lancaster Drive and 2 Centenary Drive	Lots 1 and 2, DP 1061931, as shown edged heavy black on Sheet 3 of the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 12)</i> "	Nil.
260 Oliver Avenue	Lot 71, DP 876840, as shown edged heavy black on Sheet 3 of the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 12)</i> "	Right of way 10m wide (DP 831685). Easement for sewerage purposes 3m wide (DP 876840). Easement to drain water 3m wide (DP 876840) noted on Certificate of Title Folio Identifier 71/876840.
23 Pindari Crescent	Lot 49, DP 773669, as shown edged heavy black on Sheet 3 of the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 12)</i> "	Nil.
15 Westview Drive	Lot 23, DP 829442, as shown edged heavy black on Sheet 3 of the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 4)</i> "— <a href="#">Lismore Local Environmental Plan 2000 (Amendment No 4)</a> .	Easements noted on Certificate of Title Folio Identifier 23/829442.
<b>Lismore</b>		
50 Dawson Street	Lot 1, DP 636233, as shown edged heavy black on Sheet 1 of the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 4)</i> "— <a href="#">Lismore Local Environmental Plan 2000 (Amendment No 4)</a> .	Easements and lease noted on Certificate of Title Folio Identifier 1/636233.



44 Molesworth Street (Clyde Campbell Car Park)	Lot 20, DP 629445, as shown edged heavy black on Sheet 3 of the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 12)</i> "	Book 638 No 823 Right of way affecting land burdened in DP 573589. N937441 Right of footway affecting land burdened in DP 553142. DP 595801 Right of carriageway noted on Certificate of Title Folio Identifier 20/629445.
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**Lismore Heights**

3 Barr Scott Drive	Lot 29, DP 262148, as shown edged heavy black on Sheet 4 of the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 4)</i> "— <i>Lismore Local Environmental Plan 2000 (Amendment No 4)</i> .	Nil.
37 Millar Street	Lot 4, DP 827364, as shown edged heavy black on Sheet 3 of the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 12)</i> "	Right of carriageway 2m wide (DP 802866) noted on Certificate of Title Folio Identifier 4/827364.
28 Weemala Street	Lot 54, DP 28852, as shown edged heavy black on Sheet 3 of the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 12)</i> "	Nil.
45 William Blair Avenue	Lot 17, DP 239507, as shown edged heavy black on Sheet 3 of the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 12)</i> "	Nil.

**North Lismore**

62 Lake Street	Lot 4, DP 114455, as shown edged heavy black on Sheet 3 of the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 12)</i> "	Nil.
62A Lake Street	Lot 2, DP 37270, as shown edged heavy black on Sheet 3 of the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 12)</i> "	Nil.
62B Lake Street	Lot 1, DP 37270, as shown edged heavy black on Sheet 3 of the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 12)</i> "	Nil.
1 Winterton Parade	Lot 1, DP 784065, as shown edged heavy black on Sheet 3 of the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 12)</i> "	Nil.

1A Winterton Parade	Lot 2, DP 784065, as shown edged heavy black on Sheet 3 of the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 12)</i> "	Nil.
2 Winterton Parade	Lot 1, DP 530564, as shown edged heavy black on Sheet 3 of the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 12)</i> "	Nil.
3 Winterton Parade	Lot 3, DP 784065, as shown edged heavy black on Sheet 3 of the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 12)</i> "	Nil.
3A Winterton Parade	Lot 4, DP 784065, as shown edged heavy black on Sheet 3 of the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 12)</i> "	Nil.
3B Winterton Parade	Lot 5, DP 784065, as shown edged heavy black on Sheet 3 of the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 12)</i> "	Nil.
12 Winterton Parade	Lot 5, DP 37270, as shown edged heavy black on Sheet 3 of the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 12)</i> "	Nil.
14 Winterton Parade	Lot 4, DP 37270, as shown edged heavy black on Sheet 3 of the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 12)</i> "	Nil.
16 Winterton Parade	Lot 3, DP 37270, as shown edged heavy black on Sheet 3 of the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 12)</i> "	Nil.
<b>South Lismore</b>		
97 Caniaba Street	Lot 2, DP 596412, as shown edged heavy black on Sheet 3 of the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 12)</i> "	Easements for sewerage purposes C95448, T249054 affecting land burdened in DP 611797 and E479565, noted on Certificate of Title Folio Identifier 2/596412.
45 Wilson Street	Lot 22, DP 701863, as shown edged heavy black on Sheet 5 of the map marked " <i>Lismore Local Environmental Plan 2000 (Amendment No 4)</i> "— <i>Lismore Local Environmental Plan 2000 (Amendment No 4)</i> .	Nil.

## Schedule 6A Classification and reclassification of public land as community land

(Clause 74A)

### Lismore

Wyrallah Road  
Lot 2, DP 861927, known as King Park, as shown edged heavy black on Sheet 1 of the map marked "*Lismore Local Environmental Plan 1992 (Amendment No 43)*".

## Schedule 7 Definitions

(Clause 6 (1))

In this plan:

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

**agriculture** means horticulture, the cultivation of land including crop raising, stock raising and the use of land for any purpose of animal husbandry, including the keeping or breeding of livestock, poultry or bees, and the growing of fruit, vegetables or the like, but does not include animal establishments.

**alter**, in relation to a heritage item or to a building or work within a heritage conservation area, means:

- (a) make structural changes to the outside of the heritage item, building or work, or
- (b) make non-structural changes to the detail, fabric, finish or appearance of the outside of the heritage item, building or work, not including changes that maintain the existing detail, fabric, finish or appearance of the outside of the heritage item, building or work.

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

**animal establishment** means an establishment in which animals are intensively housed, fed or slaughtered and includes an abattoir, a cattle feedlot, an intensive piggery, a chicken farm, and an intensive aquaculture farm.

**archaeological site** means the site of one or more relics.

**art and craft gallery** means a building or place used for the display and sale of items of art and craft.

**bed and breakfast establishment** means a dwelling-house which:

- (a) is used by its permanent residents (including the owner) to provide short-term paid accommodation (which may include meals), and

- (b) contains no more than 5 bedrooms, at least one of which must be used by its permanent residents, and
- (c) may include ancillary buildings within the curtilage of the dwelling-house.

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

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

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

**bulky goods showroom** means a building or place used for the sale by retail or auction, the hire or the display of items (whether goods or materials) which are of such a size, shape or weight as to require:

- (a) a large area for handling, storage or display, or
- (b) direct vehicular access to the site of the building or place by members of the public, for the purpose of loading items into their vehicles after purchase,

but does not include a building or place used for the sale of foodstuffs or clothing or a motor showroom.

**bush fire hazard reduction** means a reduction or modification (by controlled burning or mechanical or manual means) of material that constitutes a bush fire hazard.

**caravan park** means a site:

- (a) on which moveable dwellings (as defined in the [Local Government Act 1993](#)) are placed for the purpose of providing permanent accommodation or for the purpose of providing temporary accommodation for tourists, or
- (b) used for the purpose of the erection, assembly or placement of cabins for temporary accommodation by tourists.

**car repair station** means a building or place used for the purpose of carrying out repairs to motor vehicles or agricultural machinery, including panel beating and spray painting, but not repairs of a kind usually carried out by an auto-electrician.

**child care establishment** means a building or place used for the purpose of caring for or supervising children which:

- (a) caters for more than five under school age children who are not related to the owner, and
- (b) may include an educational function, and
- (c) may operate for the purpose of gain,

but does not include a building or place providing residential care for those children.

**club** means a building used by persons associated, or by a body incorporated, for social, literary,

political, sporting, athletic or other lawful purposes whether of the same or of a different kind and whether or not the whole or a part of such a building is the premises of a club registered under the [Registered Clubs Act 1976](#).

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

**communications facility** means a facility used for communications, other than “low impact” facilities as described in the [Telecommunications Act 1997](#) of the Commonwealth.

**community facility** means a building owned or operated by a public authority or a body of persons which may be used for the physical, social, cultural, or intellectual development or welfare of the local community, and includes a health centre, an information centre, a kiosk, a museum, a library, a youth centre, restroom, a neighbourhood centre, a welfare centre and a senior citizens centre or the like, but does not include a building or place elsewhere specifically defined in this Schedule.

**complying development**—see clause 9.

**conservation management plan** means a document prepared in accordance with the requirements of the NSW Heritage Office that establishes the heritage significance of an item, place or heritage conservation area and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

**convenience shop** means a shop selling or hiring out a variety of small consumer goods which may include a place used for the fuelling of motor vehicles and the retail sale of petrol, oil and petroleum products, a café, a take-away food service, postal services, and video hire services where the gross floor area does not exceed 100 square metres.

**Council** means the Council of the City of Lismore.

**craft studio** means a building or place used for the purpose of carrying out any 1 or more of the occupations referred to below by not more than 3 persons, being an occupation the carrying out of which does not involve interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil or otherwise, and includes the display and sale only of items made on the premises:

- (a) art,
- (b) design,
- (c) handicrafts,
- (d) photography,
- (e) pottery,
- (f) sculpture,
- (g) weaving,
- (h) a like occupation involving craft or art work.

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

**dual occupancy building** means a building containing 2 dwellings only.

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

**dwelling-house** means a building or buildings containing one but not more than one dwelling.

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

**environmental facilities** means:

- (a) a structure or work which provides for nature or scientific study or display facilities, such as walking tracks, board walks, observation decks, bird hides or the like, or
- (b) environmental management or restoration facilities, such as those for bush regeneration, swamp restoration, erosion and runoff prevention works or the like.

**exempt development**—see clause 9.

**exhibition dwelling** means a new dwelling-house not used as a dwelling, that is used for a pre-determined period for the exhibition of the dwelling-house or interior household appliances or products, whether or not the dwelling-house includes a sales office.

**extractive industry** means:

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

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

**flood affected land** means the land that would be inundated by the 1% AEP (Annual Exceedance Probability) flood, as shown on a map kept at the office of the Council.

**flood standard** means the flood level established by the 1% AEP (Annual Exceedance Probability) flood, as determined by the Council.

**floodway** means the area marked “FW” on the sheet of the map marked “*Map No 7, Development Control Plan No 7—Flood Prone Lands*”.

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

**generating works** means a building or place used for the purpose of making or generating gas,

electricity or other forms of energy.

**goods transport terminal** means a building or place used for the principal purpose of the bulk handling of goods for transport by road, rail, river or air, including facilities for the loading and unloading of vehicles or craft used to transport those goods and for the parking, servicing and repair of those vehicles or craft.

**gross floor area** means the sum of the areas of each floor of a building where the area of each floor is taken to be the area within the outer face of the external enclosing walls as measured at a height of 1,400 millimetres above each floor level, excluding:

- (a) columns, fin walls, sun control devices and any elements, projections or works outside the general line of the outer face of the external wall, and
- (b) lift towers, cooling towers, machinery and plant rooms and ancillary storage space and vertical air conditioning ducts, and
- (c) car-parking needed to meet any requirements of the Council and any internal access to that car parking, and
- (d) space for the loading and unloading of goods.

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

- (a) a podiatrist registered under the [Podiatrists Act 1989](#), and
- (b) a chiropractor or osteopath or chiropractor and osteopath registered under the [Chiropractors and Osteopaths Act 1991](#), and
- (c) a physiotherapist registered under the [Physiotherapists Registration Act 1945](#), and
- (d) an optometrist registered under the [Optometrists Act 1930](#).

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

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

**heritage conservation area** means an area of land described in Schedule 2 and shown edged heavy black on the heritage conservation area map and includes buildings, works, archaeological sites, trees and places and situated on or within the land.

**heritage conservation area map** means the map marked “*Lismore Local Environmental Plan 2000 (Amendment No 2)—Conservation Area*”, as amended by the maps (or, if any sheets of maps are specified, by the specified sheets of 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.

**heritage impact statement** means a document consisting of a statement demonstrating the heritage significance of a heritage item or heritage conservation area, or of a building, work, archaeological site, tree or place within a heritage conservation area, an assessment of the impact that proposed development will have on that significance and proposals for measures to minimise that impact.

**heritage item** means:

- (a) a building, work, archaeological site or place specified in an inventory of heritage items that is available at the office of the Council and the site of which is described in Schedule 1 and shown edged heavy black on the heritage item map, or
- (b) a place described as a place of Aboriginal heritage significance in the Aboriginal Heritage Information Management System maintained by the Department of Environment and Conservation.

**heritage item map** means the map marked "*Lismore Local Environmental Plan 2000 (Amendment No 2)—Heritage Items*", as amended by the maps (or, if any sheets of maps are specified, by the specified sheets of maps) marked as follows:

**Editorial note—**

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*Lismore Local Environmental Plan 2000 (Amendment No 14)—Sheets 32, 107, 110, 111, 112*

**heritage significance** means historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value.

**home industry** means an industry carried on in a building (other than a dwelling-house or a dwelling in a residential flat building) under the following circumstances:

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

**home occupation** means an occupation carried on in a dwelling-house or in a dwelling in a residential flat building by the permanent residents of the dwelling-house or dwelling that does not involve:

- (a) anything that would have required the registration of the building under the [Shops and Industries Act 1962](#) immediately before the repeal of section 11 of that Act, or



- (b) the employment of more than one person other than those residents, or
- (c) interference with the amenity of the neighbourhood 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, or
- (d) the display of goods, whether in a window or otherwise, or
- (e) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling-house or dwelling to indicate the name and occupation of the resident), or
- (f) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail from the premises.

**home office** means a building or place:

- (a) which is attached to, forms part of, or is in the vicinity of, a dwelling, and
- (b) which is used for the purpose of carrying on a business by the permanent residents of the dwelling, and
- (c) at which not more than one person other than those residents is employed, and
- (d) which is not used for the display of goods, whether in a window or otherwise, and
- (e) the use of which does not involve the exhibition of any notice, advertisement or sign, and
- (f) which is not used for the sale of any goods.

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

- (a) ancillary facilities for the accommodation of nurses or other health care workers, ancillary shops or refreshment rooms and ancillary accommodation for persons receiving health care or for their visitors, and
- (b) facilities situated in the building or at the place and used for educational or research purposes, whether or not they are used only by hospital staff or health care workers, and whether or not any such use is a commercial use.

**industry** means the manufacturing, assembling, altering, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, processing or adapting of any goods or any articles for a commercial purpose, but (in a table providing general zoning controls) does not include development elsewhere defined in this Schedule.

**institution** means a penal or reformatory establishment.

**landscape** means character or visual quality of the environment of a particular location or area and

may include both natural and man-made elements.

**licensed premises** means a building or place which is licensed under the [Liquor Act 1982](#) to permit the sale of liquor for consumption both on and away from the building or place, and includes a hotel, tavern or registered club, but does not otherwise include a liquor outlet.

**light industry** means an industry, not being an offensive or hazardous industry, in which the processes carried on, the transportation involved or the machinery or materials used do not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise

**liquid fuel depot** means a depot or place used for the bulk storage for wholesale distribution of petrol, oil, petroleum or other inflammable liquid.

**liquor outlet** means a building or place which is licensed under the [Liquor Act 1982](#) to permit the sale of liquor for consumption away from the licensed premises.

**main road** means a road that is declared to be a main road by an order in force under the [Roads Act 1993](#).

**maintenance** means the ongoing protective care of a heritage item or a building, work, archaeological site, tree or place within a heritage conservation area. It does not include alterations, such as carrying out extensions or additions, or the introduction of new materials or technology.

**marina** means a pontoon, jetty, pier or the like used, or intended to be used, to provide moorings for boats used for pleasure or recreation, whether or not operated for the purpose of gain, which may be used for the provision of:

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

but does not include a shop.

**market** means a temporary outlet for the sale of local crafts and goods, a large proportion of which are not available through normal commercial outlets, and:

- (a) which operates on one day of the week only, and
- (b) which does not require the erection of permanent structures.

**materials recycling yard** means a building or place used for collecting, dismantling, storing, abandoning, recycling or sale of secondhand or scrap materials, but does not include recycling drop-off centres operated by, or on behalf of, the Council.

**medical centre** means a building or place used for the purpose of providing professional health services (such as preventative care, diagnosis, medical or surgical treatment or counselling) to out-patients only.

**mine** means any place, open cut, shaft, tunnel, pit, drive, level or other excavation, drift, gutter, lead, vein, lode or reef on, in or by which any operation is carried on for or in connection with the purpose of obtaining any metal or mineral by any mode or method and any place on which any product of the mine is stacked, stored, crushed or otherwise treated, but does not include a quarry.

**motel** means a building or buildings (other than a hotel, boarding-house or residential flat building) substantially used for the overnight accommodation of travelers and the vehicles used by them whether or not the building or buildings are also used in the provision of meals to those travellers or the general public.

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

**offensive or hazardous industry** means an industry which, by reason of the processes involved or the method of manufacture or the nature of the materials used or produced, requires isolation from other buildings.

**passenger transport terminal** means any building or place used for the assembly, dispersal and convenience of passengers travelling by any form of passenger transport, and includes associated facilities for parking, manoeuvring, storing or routinely servicing any vehicle forming part of that undertaking.

**place of Aboriginal heritage significance** means:

- (a) a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It can (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or
- (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

**place of assembly** means a public hall, theatre, cinema, conference or reception centre, music hall, concert hall, dance hall, open-air theatre, drive-in theatre, music bowl or any other building of a like character used as such and whether used for the purposes of gain or not, but does not include a place of public worship, an institution or an educational establishment.

**place of public worship** means a church, chapel or other place of public worship or religious instruction or place used for the purpose of religious training.

**potential archaeological site** means a site:

- (a) that is specified in Schedule 1, described in that Schedule as a potential archaeological site, or
- (b) that, in the opinion of the consent authority, has the potential to be an archaeological site, even if it is not so specified.

**potential place of Aboriginal heritage significance** means a place:

- (a) that is specified in an inventory of heritage items available at the office of the Council and

described in the inventory as a potential place of Aboriginal heritage significance, or

- (b) that, in the opinion of the consent authority, has the potential to have Aboriginal heritage significance, even if it is not so specified.

**public building** means a building used as offices or for administrative or other like purposes by the Crown, a statutory body, a council or an organisation established for public purposes.

**public 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 or drainage services,

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

**recreation area** means an area used for outdoor sporting, leisure or recreation activities and may include clubhouse facilities, spectator facilities or shelters, but (in a table providing general zoning controls) does not include a building or place elsewhere specifically defined in this Schedule.

**recreation establishment** means a health farm, religious retreat house, rest home, youth camp and the like but does not include a building or place elsewhere specifically defined in this Schedule.

**recreation facility** means a building or place used for indoor recreation, a billiard saloon, table tennis centre, squash court, swimming pool, gymnasium, health studio, bowling alley or any other building of a like character used for recreation and whether used for the purpose of gain or not, but does not include a place of assembly.

**recreation vehicle area** means an area designated as a recreation vehicle area by the Environment Protection Authority under the [Recreation Vehicles Act 1983](#).

**recycling drop-off centre** means a building or place used for depositing second-hand or scrap packaging material (such as paper, cardboard, glass, cans and plastics) into collection containers operated by, or on behalf of, the Council for the purpose of their transfer for reprocessing or recycling.

**refreshment room** means a restaurant, café, tea room, eating house or the like.

**relic** means:

- (a) any deposit, object or material evidence (which may consist of human remains) that is more than 50 years old relating to the use or settlement, not being Aboriginal habitation, of the City of Lismore and that is a fixture or is wholly or partly within the ground, or  
(b) any deposit, object or material evidence (which may consist of human remains) of any age relating to Aboriginal habitation of the City of Lismore.

**residential flat building** means a building or group of buildings erected on one lot of land and

containing three or more dwellings.

**restricted premises** means a building or place used or intended for use as a shop in which:

- (a) any classified publications (other than unrestricted publications) within the meaning of the *Classification (Publications, Films and Computer Games) Enforcement Act 1995* are available for sale or rental to the public, or
- (b) a business is conducted involving selling or disposing of products to which section 578E of the *Crimes Act 1900* applies, or
- (c) a business is conducted, an object of which is the display or exhibition of any article that is primarily concerned with sexual behaviour, but which is not printed matter.

**retail plant nursery** means a building or place used for both the growing and retail selling of plants, whether or not ancillary products are also sold in that building or place.

**roadside stall** means a building or place not exceeding 20 square metres in floor space or area respectively where only primary products produced on the property on which the building or place is situated are exposed or offered for sale or sold by retail.

**rural industry** means the handling, treating, processing or packing of primary products unless such activity is part of the agricultural activity of the property concerned and also includes the servicing in a workshop of plant or equipment used for rural purposes in the locality.

**rural tourist facility** means a small scale establishment providing basic holiday accommodation or basic recreational or educational facilities and includes a camping ground, 3 or more cabins, educational facility or the like, being facilities which are integrated with or designed to complement the rural activities or attractions on the site or in the surrounding locality, but does not include a bed and breakfast establishment.

**rural workers' dwelling** means a dwelling that is on land on which there is already erected a dwelling and that is occupied by persons engaged in rural occupation on that land.

**sawmill** means a mill handling, cutting and processing timber from logs or baulks.

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

- (a) the hiring of trailers, or
- (b) the retail selling or the installing of spare parts and accessories for motor vehicles, or
- (c) the washing and greasing of motor vehicles, or
- (d) the repairing and servicing of motor vehicles (but not the body building, panel beating, or spray painting of motor vehicles), or
- (e) the retail selling or hiring out of small convenience consumer goods, but only if the gross floor area used for such selling or hiring is not greater than 100 square metres.

**shop** means a building or place used for the purpose of selling, exposing or offering for sale by retail, goods, merchandise or materials, but does not include a building or place elsewhere specifically defined in this Schedule or a building or place used for a purpose elsewhere specifically defined in this Schedule.

**stock and saleyard** means a building or place used for the purpose of offering animals for sale and includes a public cattle market.

**storage shed** means a building or place, consisting of one or more individual units, used for the storage of goods, where the goods stored or to be stored are not required for use in a shop or commercial premises on the same parcel of land or on adjoining land in the same ownership.

**temporary event** means the temporary use of a building or place for any purpose that is open to the general public and which:

- (a) involves the operation or use of a loudspeaker or sound amplifying device after 12 midnight, except within a building or place that is licensed as a place of public entertainment, or
- (b) requires the erection of a temporary or permanent structure greater than 60 square metres in area, or
- (c) involves the provision of overnight camping or accommodation, or
- (d) will, in the Council's opinion, have a significant impact on traffic, parking or the management of waste.

**the Act** means the [Environmental Planning and Assessment Act 1979](#).

**the map** means the map marked "Lismore Local Environmental Plan 2000" as amended by the maps (or, if any sheets of maps are specified, by the specified sheets of maps) marked as follows:

**Editorial note—**

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*Lismore Local Environmental Plan 2000 (Amendment No 3)*

*Lismore Local Environmental Plan 2000 (Amendment No 4)—Sheet 5*

*Lismore Local Environmental Plan 2000 (Amendment No 6)—Sheets 1 and 2*

*Lismore Local Environmental Plan 2000 (Amendment No 9)*

*Lismore Local Environmental Plan 2000 (Amendment No 10)*

*Lismore Local Environmental Plan 2000 (Amendment No 12)—Sheets 1 and 2*

*Lismore Local Environmental Plan 2000 (Amendment No 14)—Sheet 1*

*Lismore Local Environmental Plan 2000 (Amendment No 15)*

*Lismore Local Environmental Plan 2000 (Amendment No 16)*

*Lismore Local Environmental Plan 2000 (Amendment No 23) (Sheets 1-4)*

*Lismore Local Environmental Plan 2000 (Amendment No 25)*

*Lismore Local Environmental Plan 2000 (Amendment No 28)*

*Lismore Local Environmental Plan 2000 (Amendment No 31)*

**tourist facilities** means an establishment providing for 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, water sport facilities or a club used in conjunction with any such activities, but does not include a bed and breakfast establishment.

**transport depot** means a building or place used for the parking or storage of motor powered or motor drawn vehicles used in connection with a passenger or goods transport undertaking.

**utility installation** means a building or work used by a public utility undertaking, but does not include a building designed wholly or principally as administrative or business premises or as a showroom.

**veterinary hospital** means a building or place used for diagnosing or for surgically or medically treating animals, whether or not the animals are kept on the premises for the purposes of treatment.

**warehouse** means a building or place used for the storage of goods, merchandise or materials pending their sale and distribution.

**wholesale plant nursery** means a building or place used for either the growing or storage of plants, pending their sale in large quantities for the purposes of resale or agriculture.

## **Schedule 8 Major drains**

Clause 28A

Barne's Drain  
Dungarubba Creek  
Mystery Drain  
Flatley's Drain  
Meston's Drain  
Kilgin Drain  
Bertoli's Drain  
Robinson's Drain  
Thompson Drain  
Krishna Drain  
Yeager Drain  
O'Connor Drain  
McPherson Drain  
Snowy's Drain  
Rippon's Drain