

Casino Local Environmental Plan 1992

[1992-268]



New South Wales

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New South Wales

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Casino Local Environmental Plan 1992



New South Wales

Part 1 Preliminary

1 Name of plan

This plan may be cited as *Casino Local Environmental Plan 1992*.

2 Aims, objectives etc

The general aims of this plan are:

- (a) to replace the existing statutory planning controls applying to the Municipality of Casino with a single local environmental plan to help facilitate the growth and **development** of the Municipality of Casino,
- (b) to encourage the proper management, development and conservation of natural and man-made resources within the Municipality of Casino by dividing the land into zones referred to in clause 8 and to achieve in respect of land within each of those zones the objectives specified in the Table to clause 9, and
- (c) to encourage the making of **development** control plans pursuant to section 72 of **the Act** regulating **development** in any zone:
 - (i) by restricting certain **development** to a specific area within the zone, and
 - (ii) by fixing standards or specifying requirements in respect of any aspect of that **development**.

3 Land to which plan applies

This plan applies to all land within the Municipality of Casino.

4 Relationship to other environmental planning instruments

- (1) *Interim Development Order No 1—Municipality of Casino, Interim Development Order No 1—Shire of Tomki* (insofar as it applies to the Municipality of Casino) and such local environmental plans and other deemed environmental planning instruments as, immediately before the **appointed day**, applied to the land to which this plan applies are repealed.

- (2) Certain State Environmental Planning Policies and Regional Environmental Plans may affect the operation of certain aspects of this plan. Accordingly, this plan should be read in conjunction with other applicable environmental planning instruments.

5 Interpretation

- (1) In addition to the definitions set out at clause 4 of the *Environmental Planning and Assessment Model Provisions 1980*, the following definitions apply to the plan. For ease of interpretation, words having a specified meaning pursuant to the Act, this clause or clause 4 of the *Environmental Planning and Assessment Model Provisions 1980* are displayed in this plan in bold typeface.

aerodrome means a place licensed by the Commonwealth Department of Transport for use by aircraft.

aircraft flight path means:

- (a) land designated on the map titled “*Casino Aerodrome Obstacle Limitation Surfaces*” deposited in the Office of the **Council**, or
- (b) land designated as “**aircraft flight path**” by a development control plan.

alter in relation to a **heritage item** means:

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

animal boarding or training establishment means a place for the commercial boarding, breeding, keeping or training of animals and includes a riding school and veterinary clinic.

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

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

boundary adjustment subdivision means the subdivision of land upon which a **dwelling-house** could lawfully be constructed, which creates no additional lot, nor entails any existing lot being reduced in size to below the development standard prescribed for the zone in which the land is located.

caravan park has the meaning specified in the *Caravan Parks and Movable Dwellings Ordinance* (being *Ordinance No 71* made under the *Local Government Act 1919*).

community building means a building or place owned or leased by the **Council** and used to provide facilities comprising or relating to any one or more of the following:

- (a) a public library,
- (b) public health, welfare or information services,
- (c) rest rooms,
- (d) meeting rooms,
- (e) indoor recreation,
- (f) child minding, or
- (g) other community support facilities.

conservation plan means a document establishing the significance of a **heritage item** and identifying the policies that are appropriate to enable that significance to be retained in its future use and **development**.

consulting rooms means a room or a number of rooms, being a part of a **dwelling-house** or the whole of a former **dwelling-house**, and used by not more than three professionally qualified practitioners who practice therein their respective professions and, if more than one, practise in partnership, and who employ not more than three employees in connection with the practice.

Council means the Council of the Municipality of Casino.

demolition, in relation to a **heritage item**, means the damaging, defacing, destruction, pulling down or removal of the **heritage item**, in whole or in part.

environmental education facility means a building or place used for environmental education purposes.

environmentally sensitive land means:

- (a) land included in Zone No 7 (k), or
- (b) land shown diagonally hatched with black lines on **the map**.

existing holding means:

- (a) in the case of land to which *Interim Development Order No 1—Municipality of Casino* formerly applied:
 - (i) a lot, portion or parcel of land as it was at 19 November 1971, or
 - (ii) where, at 19 November 1971, a person owned 2 or more adjoining or adjacent lots, portions or parcels of land, the aggregation of those lots, portions or parcels as they were at that date, or
- (b) in the case of land to which *Interim Development Order No 1—Shire of Tomki*

formerly applied:

- (i) a lot, portion or parcel of land as it was at 28 April 1972, or
- (ii) where, at 28 April 1972, a person owned 2 or more adjoining or adjacent lots, portions or parcels of land, the aggregation of those lots, portions or parcels as they were at that date.

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

- (a) piggeries,
- (b) poultry farms, and
- (c) fish farming (including crustaceans and oysters),

but does not include an **animal boarding or training establishment** or land used for the keeping of livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of the land.

flood liable land means:

- (a) land shown as prone to flood on the map marked "*Flood Inundation Map, Casino, 1980*" prepared by the Water Resources Commission, or
- (b) land designated as "**flood liable land**" by a development control plan.

heritage item means a building, work, **relic** or place of historic, scientific, cultural, social, architectural, archaeological, natural or aesthetic significance to the Municipality of Casino described in Schedule 1.

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

maintenance means the continuous protective care of the fabric of a **heritage item** and its setting.

open space-passive includes:

- (a) unmaintained bushland,
- (b) a buffer area, or
- (c) an area used for non-active recreational purposes relating to cultural or intellectual recreational interests.

open space-active includes:

- (a) a children's playground,
- (b) an area used for sporting activities or sporting facilities, or
- (c) an area used for active recreational purposes relating to physical recreational interests.

The term does not include a **recreation establishment, recreation facility** or a **place of assembly**.

planning unit means land referred to in Schedule 2 as a planning unit.

primitive camping ground means land licensed for use as a primitive camping ground under clause 101 of the *Caravan Parks and Movable Dwellings Ordinance*.

relic means any deposit, object or material evidence (terrestrial or underwater) relating to the use or settlement of the area to which this plan applies which is 50 or more years old.

the map means the map consisting of sheets marked "*Casino Local Environmental Plan, 1992*", as amended by the maps (or, if any sheets of maps are specified, by the specified sheets of the maps) marked as follows:

Editorial note—

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

Casino Local Environmental Plan 1992 (Amendment No 1)

Casino Local Environmental Plan 1992 (Amendment No 5)

Casino Local Environmental Plan 1992 (Amendment No 8)

(2) In this plan:

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

(3) Matter which appears in this plan under the heading "Note" is an explanatory note and does not form part of this plan. It is provided to assist understanding.

6 Adoption of Model Provisions

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

- (a) the definitions of **advertisement**, **advertising structure**, **arterial road**, **map** and **professional consulting rooms** in clause 4 (1), and
 - (b) clauses 5 (2), 5 (3), 6, 15, 16, 17, 29 and 33,
- are adopted for the purposes of this plan.

7 Consent authority

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

Part 2 Zones

8 Zones indicated on the map

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

Zone No 1 (a)

Rural (Agricultural Protection) Zone—edged heavy black and lettered “1 (a)”.

Zone No 1 (b)

Rural (Secondary Agriculture Land) Zone—edged heavy black and lettered “1 (b)”.

Zone No 1 (d)

Rural (Urban Investigation) Zone—edged heavy black and lettered “1 (d)”.

Zone No 2

Township Zone—edged heavy black and lettered “2”.

Zone No 3

Business Zone—edged heavy black and lettered “3”.

Zone No 7 (k)

Environmental Protection (Habitat) Zone—edged heavy black and lettered “7 (k)”.

Zone No 9

Roads (Main Roads Proposed) Zone—rectangular symbols.

9 Zone objectives and development control table

- (1) The objectives of a zone are set out in the Table to this clause under the head “Objectives of zone” appearing in the matter relating to the zone.
- (2) Except as otherwise provided by this plan, in relation to land within a zone specified in the Table to this clause:
 - (a) development that may be carried out without development consent, and
 - (b) development that may be carried out only with development consent, and
 - (c) development that is prohibited,is specified under the headings “Without development consent”, “Only with development consent” and “Prohibited”, respectively, appearing in the matter relating to the zone.
- (3) Except as otherwise provided by this plan, the **Council** shall not grant consent to the carrying out of **development** on land to which this plan applies unless the **Council** is of the opinion that the carrying out of the **development** is consistent with the objectives of the zone within which the **development** is proposed to be carried out.
- (4) In determining whether the carrying out of particular development is consistent with the objectives of a zone:
 - (a) the objectives of a zone are taken to be stated in this plan in descending order of their importance, and
 - (b) if the carrying out of the development is consistent with at least one of the objectives of a zone, the Council may determine that it is consistent with the objectives of the zone even though it is not consistent with one or more less important objectives of the zone.

Table

Zone No 1 (a) Rural (Agricultural Protection) Zone

1 Objectives of zone

The objectives are:

- (a) to regulate the subdivision and use of land within this zone to ensure that:
 - (i) land actually used for purposeful agricultural production, or
 - (ii) land having the potential for purposeful agricultural production,is developed in a manner to optimise its production potential, as advised

from time to time by the Department of Agriculture,

- (b) to maintain the rural character of the locality,
- (c) to permit **development** which does not create unreasonable or uneconomic demand, or both, for the provision or extension of public amenities and public services, and
- (d) to enable **development** which is ancillary to the agricultural use of land within the zone (particularly **dwelling-houses, rural workers' dwellings, rural industry** and **extractive industry**) where the development does not significantly reduce the production potential of the subject land or other land in the locality.

2 Without development consent

Development for the purpose of:

Agriculture (other than **feed lots**, piggeries, poultry farms, stock homes and other intensive keeping of animals); **forestry**.

Exempt development

3 Only with development consent

Any development not included in item 2 or 4.

4 Prohibited

Development for the purpose of:

Car repair stations; caravan parks; commercial premises; hotels; industries (other than **rural industries, extractive industries** or meatworks related **industries**); **institutions; junk yards; motels; motor showrooms**; recreation vehicle areas; residential buildings (other than **dwelling-houses**); shops (other than **general stores**).

Zone No 1 (b) Rural (Secondary Agricultural Land) Zone

1 Objectives of zone

The objectives are:

- (a) to encourage the productive use of the land and enable **development** ancillary to agricultural land uses (particularly **dwelling-houses, rural workers' dwellings** and **rural industries**),

- (b) to maintain the rural character of the locality,
- (c) to permit **development** which does not create unreasonable or uneconomic demand, or both, for the provision or extension of public amenities and public services,
- (d) to permit the **development** of land for extractive resource purposes,
- (e) to permit the **development** of **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 or specific land uses,
- (f) to permit closer rural settlement on land where an applicant has demonstrated compliance with the requirements of clause 15 and Schedule 3, and
- (g) to permit a range of uses which are compatible with the rural character of the land, particularly tourist oriented developments, **recreation establishments** and **recreation facilities**.

2 Without development consent

Development for the purpose of:

Agriculture (other than **feed lots**, piggeries, poultry farms, stock homes and other intensive keeping of animals); **forestry**.

Exempt development

3 Only with development consent

Any development not included in item 2 or 4.

4 Prohibited

Development for the purpose of:

Caravan parks for long-term residents (within the meaning of the *Caravan Parks and Movable Dwellings Ordinance*); residential buildings (other than **dwelling-houses**); **industries** (other than **rural industries, extractive industries, offensive or hazardous industries** or meatworks related industries); **shops** (other than **general stores**).

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

1 Objectives of zone

The objectives are:

- (a) to identify land which may be needed in the future and will be thoroughly investigated with respect to its suitability or otherwise for urban land uses and the environmental consequences associated with the land's release and to meet the investigation objectives specified in Schedule 2,
- (b) to regulate the subdivision and use of land so as to prohibit **development** which could prejudice the possible future release of land within this zone,
- (c) to ensure that the release of land for urban purposes shall not take place unless:
 - (i) urban structure planning has been completed by the **Council**,
 - (ii) the **Council** reviews suitability investigations for individual planning units and detailed land use allocations for each **planning unit** have been determined by the **Council**,
 - (iii) sufficient demand exists for the release of urban land, and
 - (iv) appropriate public amenities and public services are available to the land or can be provided to the land in a manner which does not create an unreasonable or uneconomic demand, or both, for the provision or extension of such amenities and services, and
- (d) to permit **development** for **agriculture** and a range of other purposes complementary to the primary zone objectives, particularly **tourist facilities, recreation establishments** and **recreation facilities**, subject to that development:
 - (i) not creating unreasonable uneconomic demand, or both, for the provision or extension of public amenities or services,
 - (ii) maintaining a semi-rural character, and
 - (iii) being compatible with the possible urban **development**, particularly residential uses, of the land in the locality, in the future.

2 Without development consent

Development for the purpose of:

Agriculture (other than **feed lots**, piggeries, poultry farms, stock homes and other intensive keeping of animals); **forestry**.

Exempt development

3 Only with development consent

Any development not included in item 2 or 4.

4 Prohibited

Development for the purpose of:

Car repair stations; caravan parks for long-term residents within the meaning of the *Caravan Parks and Movable Dwellings Ordinance*; **commercial premises; industries** (other than **rural industries, extractive industries** or **home industries**); **junk yards; motor showrooms**; residential buildings (other than **dwelling-houses**); **sawmills; shops** (other than **general stores**).

Zone No 2 Township Zone

1 Objectives of zone

The objectives are:

- (a) to regulate the subdivision and use of land and permit a wide range of urban purposes consistent with the scale and character of Casino,
- (b) to allow detailed provision to be made, by means of a development control plan, for specific areas within the zone for residential, industrial, commercial, open space and special uses, as well as other urban and tourist purposes, and
- (c) to allow a variety of **development** types and designs and to encourage greater visual amenity.

2 Without development consent

Exempt development

3 Only with development consent

Any development not included in item 2 or 4.

4 Prohibited

Any development inconsistent with the zone objectives.

Zone No 3 Business Zone

1 Objectives of zone

The objectives are:

- (a) to regulate the subdivision and the use of land within the zone to maintain the status of the Casino Business District as the retail, commercial and administrative centre of the Municipality,
- (b) to allocate sufficient land for retail, commercial and administrative purposes within the Municipality and to regulate the subdivision and use of that land so that it is developed in accordance with a commercial hierarchy,
- (c) to permit a wide range of uses within the zone that are associated with, ancillary to or supportive of the retail and service facilities within the zone, particularly tourist **development** and related industries, and
- (d) to permit residential development where it is compatible with the commercial character of the zone and provides its residents with appropriate leisure facilities to ensure a high level of residential amenity.

2 Without development consent

Exempt development

3 Only with development consent

Any development not included in item 2 or 4.

4 Prohibited

Development for the purpose of:

Abattoirs; **caravan parks**; cemeteries and crematoriums; **dwelling-houses** or **residential flat buildings** (other than those physically attached to or used in conjunction with purposes permissible with

development consent); **extractive industries**; **generating works**; **hospitals**; **industries** (other than **light industries**); junk yards; liquid fuel depots; mines; **roadside stalls**; **sawmills**; **stock and sale yards**; timber yards; **transport terminals** (other than **bus stations** and **bus depots**).

Zone No 7 (k) Environmental Protection (Habitat) Zone

1 Objectives of zone

- A The primary objective is to protect areas of particular habitat significance.
- B The secondary objective is to enable **development** of a similar nature to that permitted by the objectives of Zone No 1 (b) except for **development** which would conflict with the primary objective of this zone.
- C Despite the primary and secondary objectives, **development** for the purposes of **public utility undertakings** and services is an objective, but only in cases of demonstrated and overriding public need and subject to the impact on the habitat area being minimised as much as is reasonably practical.

2 Without development consent

Exempt development

3 Only with development consent

Development for the purpose of:

Agriculture; bush fire hazard reduction; **environmental educational facilities**; environmental protection works; **open space—passive**; roads; **utility installations**.

4 Prohibited

Any development not included in item 2 or 3.

Zone No 9 Roads (Main Roads Proposed) Zone

1 Objectives of zone

The objectives are:

- (a) to reserve those lands which are required for the purposes of main

roads, and

- (b) to permit **development**, in the interim, of the kind permitted in the zone immediately abutting this zone.

2 Without development consent

Development for the purpose of:

Agriculture (other than **feed lots**, piggeries, poultry farms, stock homes and other intensive keeping of animals and the erection of buildings); roads.

Exempt development

3 Only with development consent

Any development not included in item 2 or 4.

4 Prohibited

Any development inconsistent with the zone objectives.

Part 3 Special provisions

10 Subdivision control

A person shall not subdivide land within the Municipality of Casino, except with the consent of the **Council**.

11 General rural zone subdivision

- (1) Subject to subclause (2) and clause 12, the **Council** may consent to the subdivision of land within any rural zone if it is satisfied that the land will be used for agricultural purposes but only if the area of each lot to be created by the subdivision is not less than 40 ha.
- (2) Nothing in subclause (1) prevents the Council from granting consent to a **boundary adjustment subdivision** of land within a rural zone.

12 Special purpose rural subdivision

- (1) Where land within a rural zone is lawfully used for a purpose (other than a **dwelling-house or agriculture**) or may be used for such a purpose by reason of a development consent being granted in respect of that use, the **Council** may consent to a subdivision excising that land to facilitate its use for that purpose.
- (2) Clause 11 (1) does not apply to development referred to in subclause (1).

13 General rural dwelling-house construction

A **dwelling-house** may, with the consent of the **Council**, be erected on vacant land within a rural zone, where the land:

- (a) has an area of not less than 40 ha,
- (b) is an **existing holding**,
- (c) is an allotment created by a subdivision in accordance with clause 11, or
- (d) is an allotment created by a subdivision to which development consent was granted before the **appointed day**, not being a development consent which was granted subject to a condition that a **dwelling-house** could not be erected on that allotment.

14 Rural worker's dwelling

A **rural worker's dwelling** may, with the consent of the Council, be erected on an allotment within a rural zone. The **dwelling** may be erected only if the agricultural activity being carried out on the allotment requires an employee to reside at that **dwelling**.

15 Closer rural settlement within Zone No 1 (b)

- (1) This clause applies to a development application:
 - (a) to subdivide land within Zone No 1 (b) for rural residential style purposes, or
 - (b) to erect on such land more than one **dwelling-house**,or to carry out development referred to in paragraphs (a) and (b).
- (2) Notwithstanding clauses 11-14 and subject to subclause (3), the **Council** may grant consent to a development application to which this clause applies where:
 - (a) the land is served by a sealed road having a minimum sealed carriageway width of 5.6 m,
 - (b) the land has an area of not less than 25 ha,
 - (c) the number of dwellings to be erected on the land does not exceed one dwelling for each 1.25 ha of land area, and
 - (d) the applicant demonstrates to the satisfaction of the **Council** by way of the submission of a detailed report, that the **development** is consistent with the planning principles specified in Schedule 3.
- (3) The Council may grant consent to **development** as referred to in this clause which does not satisfy one or more of the principles set out in Schedule 3, but only when:

- (a) in the circumstances of the case there is a contradiction between one or more principles (in such an instance the Council shall give weight to the planning principles which, in its view, accord with the objectives of Zone No 1 (b)), or
- (b) the nature of the site makes it impracticable to comply with one or more of the principles.

- (4) The **Council** shall not grant consent to **development** as referred to in this clause where that consent would result in a total number of dwellings created pursuant to this clause in a five year period which exceeds the number specified in writing by the **Council** with the approval of the Director of the **Department**.

15A Exempt development

Note—

Under section 76 of the Act, exempt development may be carried out without the need for development consent under Part 4 of the Act or for assessment under Part 5 of the Act.

The section states that exempt development:

- (a) must be of minimal environmental impact, and
 - (b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), and
 - (c) cannot be carried out in a wilderness area (identified under the *Wilderness Act 1987*).
- (1) The objective of this clause is to identify development of minimal environmental impact as exempt development.
- (2) Development specified in Schedule 1 to the *Richmond Valley Council Development Control Plan No 13—Exempt and Complying Development* (as adopted by the Richmond Valley Council on 20 November 2007) that meets the standards for the development contained in that Schedule and that complies with the requirements of this clause is exempt development.
- (3) To be exempt development, the development:
- (a) must meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
 - (b) must not, if it relates to an existing building, cause the building to contravene the *Building Code of Australia*, and
 - (c) must not be designated development, and
 - (d) must not be carried out on land that comprises, or on which there is, a heritage item listed in Schedule 1 or on the State Heritage Register under the *Heritage Act 1977* or that is subject to an interim heritage order under the *Heritage Act 1977*,

and

(e) must not be carried out in an environmentally sensitive area for exempt or complying development (as defined in clause 15C).

(4) Development that relates to an existing building that is classified under the *Building Code of Australia* as class 1b or class 2-9 is exempt development only if:

(a) the building has a current fire safety certificate or fire safety statement, or

(b) no fire safety measures are currently implemented, required or proposed for the building.

15B Complying development

Note—

Under section 76A of the Act, development consent for the carrying out of complying development may be obtained by the issue of a complying development certificate.

The section states that development cannot be complying development if:

(a) it is on land that is critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), or

(b) it is on land within a wilderness area (identified under the *Wilderness Act 1987*), or

(c) the development is designated development, or

(d) the development is on land that comprises, or on which there is, an item of environmental heritage, or

(e) the development requires concurrence (except a concurrence of the Director-General of the Department of Environment and Climate Change in respect of development that is likely to significantly affect a threatened species, population, or ecological community, or its habitat (identified under the *Threatened Species Conservation Act 1995*), or

(f) the development is on land identified as an environmentally sensitive area.

(1) The objective of this clause is to identify development as complying development.

(2) Development specified in Schedule 2 to the *Richmond Valley Council Development Control Plan No 13—Exempt and Complying Development* (as adopted by the Richmond Valley Council on 20 November 2007) that is carried out in compliance with:

(a) the development standards specified in relation to that development, and

(b) the requirements of this clause,

is complying development.

(3) To be complying development, the development must:

(a) be permissible, with consent, in the zone in which it is carried out, and

- (b) meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
 - (c) have an approval, if required by the *Local Government Act 1993*, from the Council for an on-site effluent disposal system if the development is undertaken on unsewered land.
- (4) A complying development certificate for development specified in Schedule 2 to the *Richmond Valley Council Development Control Plan No 13—Exempt and Complying Development* (as adopted by the Richmond Valley Council on 20 November 2007) is subject to the conditions (if any) set out in that Schedule for that development.

15C Environmentally sensitive areas excluded

- (1) Exempt or complying development must not be carried out on any environmentally sensitive area for exempt or complying development.
- (2) For the purposes of this clause, **environmentally sensitive area for exempt or complying development** means any of the following:
 - (a) the coastal waters of the State,
 - (b) a coastal lake,
 - (c) land to which *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests* applies,
 - (d) land reserved as an aquatic reserve under the *Fisheries Management Act 1994* or as a marine park under the *Marine Parks Act 1997*,
 - (e) land within a wetland of international significance declared under the Ramsar Convention on Wetlands or within a World heritage area declared under the World Heritage Convention,
 - (f) land within 100 metres of land to which paragraph (c), (d) or (e) applies,
 - (g) land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance,
 - (h) land reserved as a state conservation area under the *National Parks and Wildlife Act 1974*,
 - (i) land reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna, geological formations or for other environmental protection purposes,
 - (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*.

16 Development that must be advertised

Pursuant to section 29A (1) of the Act, the following constitute advertised development for the purposes of the Act:

- (a) applications for consent to the carrying out of **development** of the kind specified in clause 23,
- (b) **development** specified in *Development Control Plan No 1—Policy Statement No 11*, as adopted by the **Council** on 22 June 1999 as advertised, development, and
- (c) the demolition of a **heritage item**, and
- (d) the use of a building or land referred to in clause 30 for a purpose which, but for that clause, would be prohibited under this plan.

17 Flood liable land

A person shall not with respect to **flood liable land** erect a **dwelling-house** or carry out any work which is likely to affect flood conditions or be detrimentally affected by a flood event, except with the consent of the **Council**.

18 Environmentally sensitive land

- (1) A person shall not with respect to **environmentally sensitive land**:
 - (a) use the land or any building on it for a purpose other than that for which it was lawfully used immediately before the appointed day,
 - (b) clear, cut down or lop any vegetation on that land,
 - (c) construct a levee on that land,
 - (d) drain that land, or
 - (e) fill that land,except with the consent of the Council.
- (2) In determining an application for consent required by subclause (1), the **Council** shall have regard to:
 - (a) the risk of soil erosion or other degradation of land,
 - (b) the impact on native plant and wildlife communities,
 - (c) the impact on surface and ground-water characteristics, and
 - (d) the impact on the scenic amenity of the locality.

19 Aircraft traffic safety and nearby residential amenity

- (1) A person shall not construct any structure having a height of greater than 20 m anywhere within the Municipality of Casino.
- (2) A person shall not, on land within an **aircraft flight path**, erect a structure having a height greater than that approved by the Commonwealth Department of Aviation.
- (3) Notwithstanding subclauses (1) and (2), a person may, with the consent of the Council, carry out development otherwise prohibited by this clause, but before granting consent to any such development the **Council** shall obtain written advice from the Commonwealth Department of Aviation concerning:
 - (a) building heights which may constitute a hazard or potential hazard to aircraft flying in the vicinity, and
 - (b) any noise exposure forecasts and whether the proposed use of the building will be adversely affected by exposure to aircraft noise.

20 Acquisition of land

- (1) This clause applies to land within Zone No 9.
- (2) The owner of any land within Zone No 9 may, by notice in writing, require the Roads and Traffic Authority (RTA) to acquire the land.
- (3) On receipt of such a notice, the RTA must acquire the land if:
 - (a) the land is vacant, or
 - (b) the land is not vacant but:
 - (i) the land is included in the 5 year works program of the RTA current at the time of the receipt of the notice, or
 - (ii) the RTA has decided not to give concurrence under subclause (4) to an application for consent to the carrying out of **development** on the land, or
 - (iii) the RTA is of the opinion that the landowner will suffer hardship if the land is not acquired within a reasonable time,but the RTA is not required to acquire the land if it might reasonably be required to be dedicated for public road.
- (4) A person may, with the consent of the **Council** and the concurrence of the RTA, carry out development on land within Zone No 9:
 - (a) for a purpose for which **development** may be carried out on land in an adjoining zone, or

- (b) for any other purpose which is compatible with development which may be carried out on land in an adjoining zone.
- (5) In deciding whether to grant concurrence in accordance with subclause (4), the RTA must take the following matters into consideration:
 - (a) the need to carry out **development** on the land for the purpose for which the land is reserved,
 - (b) the imminence of acquisition,
 - (c) the likely additional cost to the RTA resulting from the carrying out of the proposed **development**.
- (6) Land acquired under this clause may be developed, with the consent of the **Council**, for any purpose, until such time as it is required for the purpose for which it was acquired.
- (7) In this clause, **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.

21 Development near the boundary of adjacent zones

- (1) **Development** may, with the consent of the **Council**, be carried out on land within 50 metres of the boundary between any 2 zones (other than Zone No 7 (k)) for any purpose for which development may be carried out on land within 50 metres of the other side of the boundary.
- (2) The **Council** shall not grant consent to the carrying out of **development** pursuant to subclause (1) unless the carrying out of the **development** is necessary, in the opinion of the **Council**, due to the design requirements relating to the **development** of land to which this plan applies.
- (3) Where a zone boundary does not correspond with a cadastral boundary, the **Council** may fix the zone boundary following a survey which identifies the characteristics of the land and the relationship of those characteristics to the objectives of the zones concerned.
- (4) Where a zone boundary is fixed under subclause (3), land shall for the purposes of this plan be taken to be within the zone determined by the **Council** in accordance with the survey and is not within any other zone.

22 Development of certain land fronting Reynolds Road and Summerland Way, Casino

- (1) This clause applies to certain land fronting Reynolds Road and Summerland Way, Casino, as shown edged heavy black and lettered "2" on the map marked "*Casino Local Environmental Plan 1992 (Amendment No 8)*".

- (2) The **Council** must not grant consent to the **development** of the land to which this clause applies otherwise than for industrial and associated purposes.

23 Cases of overriding public need

Notwithstanding any other provision of this plan, the **Council** may grant consent to the **development** of land for the purposes of **public utility undertakings** and services where such **development** is inconsistent with the zone objectives, but only if the Council is satisfied that there is demonstrated and overriding public need for the development.

24 Arterial roads

- (1) The Council shall not consent to an application to carry out **development** on land which has frontage to an **arterial road**, unless:
- (a) access to that land is provided by a road other than the **arterial road**, wherever practicable, and
 - (b) in the opinion of the Council, the safety and efficiency of the **arterial road** will not be adversely affected by:
 - (i) the design of the access to the proposed **development**,
 - (ii) the emission of smoke or dust from the proposed **development**, and
 - (iii) the nature, volume or frequency of vehicles using the **arterial road** to gain access to the proposed **development**.
- (2) The **Council** shall not consent to the **development** of land within a rural zone for any purpose listed in Schedule 4 if the **development** of the land for the purpose will have direct access to:
- (a) an **arterial road**, or
 - (b) a road connecting an **arterial road**, and the access to that road is within 90 metres (measured along the road alignment of the connecting road) of the alignment of the **arterial road**,
- except with the concurrence of the Roads and Traffic Authority.

25 Zone No 7 (k) catchments

In considering an application for consent to the carrying out of development within the water shed catchment (as determined by the Council) of land within Zone No 7 (k), the **Council** shall have regard to the impacts of adjacent **development** in respect of resultant run-off, erosion and sedimentation.

Part 4 Heritage provisions

26 Heritage aims and objectives

The aims and objectives of this Part are:

- (a) to conserve the environmental heritage of Casino Municipality, and
- (b) to integrate heritage conservation into the planning and **development** control processes, and
- (c) to provide for public involvement in the matters relating to the conservation of the area's environmental heritage, and
- (d) to ensure that new **development** is undertaken in a manner that is sympathetic to, and does not detract from, the **heritage significance** of the items and their settings, as well as streetscapes and landscapes and the distinctive character that they impart to the land to which this plan applies.

27 Heritage items

- (1) A person must not, in respect of a building, work, **relic**, place or tree that is a **heritage item**:
 - (a) demolish or **alter** the building or work, or
 - (b) damage or move the **relic**, or
 - (c) excavate for the purpose of exposing the **relic**, or
 - (d) damage or despoil the place or tree, or
 - (e) erect a building on, or subdivide, land on which the building, work or **relic** is situated or that comprises the place, or
 - (f) damage any tree on land on which the building, work or **relic** is situated or on the land which comprises the place,except with the consent of the **Council**.
- (2) The **Council** must not grant consent to a development application required by subclause (1) unless it has taken into consideration the extent to which the carrying out of the proposed **development** would affect the **heritage significance** of the item and any stylistic or horticultural features of its setting.
- (3) The **Council** may require that a **conservation plan** accompany a development application required by this clause to enable the consent authority to fully consider the **heritage significance** of the item and the impact of the proposed **development** on the significance of the item and its setting.

28 Development in the vicinity of heritage items

The **Council** may not grant consent to an application to carry out **development** on land in the immediate vicinity of a **heritage item** unless it has made an assessment of the effect the carrying out of that **development** will have on the **heritage significance** of the item and its setting.

29 Heritage advertisements and notifications

- (1) (Repealed)
- (2) The **Council** must not grant consent to an application to demolish a **heritage item** unless:
 - (a) the **Council** has notified the Heritage Council of its intention to grant consent, and
 - (b) the Heritage Council has no objection to the granting of consent.
- (3) The Heritage Council is to be taken as having no objection unless it notifies the **Council** of its objection not later than 28 days after receiving notice of the **Council's** intention to grant consent.
- (4) This clause does not apply to the partial **demolition** of a **heritage item** if, in the opinion of the **Council**, the partial **demolition** will be of a minor nature and will not adversely affect the **heritage significance** of the **heritage item**, in relation to the environmental heritage of the Municipality of Casino.

30 Conservation incentives

Nothing in this plan prevents the **Council** from granting consent for the use, for any purpose, of a building that is a **heritage item** or the land on which the building is erected if it is satisfied that:

- (a) the proposed use would have little or no adverse effect on the amenity of the area, and
- (b) the conservation of the building depends on the **Council** granting the consent.

Part 5

31, 32 (Repealed)

Part 6 Classification and reclassification of public land as operational

33 Classification and reclassification of public land as operational

The public land described in Schedule 5 is classified, or reclassified, as operational land for the purposes of the *Local Government Act 1993*.

Note—

The *Local Government Act 1993* defines **public land** to mean any land (including a public reserve) vested in or under the control of the Council (not including a road, land to which the *Crown Lands Act 1989* applies, a common or land subject to the *Trustees of Schools of Arts Enabling Act 1902*).

Section 25 of the *Local Government Act 1993* requires all public land to be classified as either “operational” or “community” in accordance with Part 2 of Chapter 6 of the Act. The classification will generally be achieved by a local environmental plan but may, in some circumstances, be achieved by resolution of the Council (see sections 31, 32 and 33). (Some land was classified as operational by virtue of the transitional provisions of the Act).

Reclassification of land as operational will also generally be achieved by a local environmental plan. The reclassification may, in one of the limited cases described in section 32, be achieved by a resolution of the Council.

The purpose of classification (and reclassification) is to clearly identify that land which should be kept for use by the general public (community) and that land which need not (operational). The major consequence of classification is that it determines the ease or difficulty with which land may be alienated by sale, leasing or some other means.

The current classification of public land can be ascertained from the Council’s Land Register.

Schedule 1 Heritage Items List

(Clause 5)

Barker Street, Cnr Centre Street	Cecil Hotel
Barker Street, Cnr Walker Street	Commercial Hotel
Barker Street, Cnr West Street	St Mark’s Church
Barker Street, No 42	Former Norton Residence
Barker Street,	Post Office GRP
Barker Street,	Post Office
Barker Street, No 100	Cassino Court (Former CBC Bank including residence and stables)
Barker Street, No 127–9	Shop above awning
Barker Street	Holwood Residence
Canterbury Street, Cnr Centre Street	St Mary’s Roman Catholic Church
Canterbury Street, Cnr Walker Street	Former ES&A Bank
Canterbury Street, Cnr West Street	Marist Brothers High School
Canterbury Street, Rear of Manse	Former Manse
Canterbury Street	Former Parsonage
Centre Street, Cnr North Street	St Mary’s Roman Catholic Convent
Centre Street, No 18	Croke Residence

Dyraaba Street	Casino Railway Station including refreshment room and platform; Old Casino Railway Station precinct.
Hickey Street,	St Paul's Presbyterian Church
Lennox Street, No 99	Former Mitchell Residence
Lennox Street, No 107	Armstrong or Heathwood Residence
Reynolds Road	Namoona Lawn Cemetery
Richmond Street, Cnr Walker Street	Courthouse
Simpson's Parade, Cnr Walker Street	Nance's Shoe Store & Richmond Bakery
Walker Street, Cnr Simpson's Parade	ANZ Bank
Walker Street, Cnr Barker Street	Westpac Bank
Walker Street, Cnr Barker Street	Former Bank of NSW
Walker Street	Fitzmac's/Smith's Store
Walker Street	Former School-master's Residence
Walker Street	School of Arts
Walker Street	Casino Police Station
Walker Street, off Rear Civic Centre	Municipal Council Offices
West Street	Casino General Cemetery
West Street, South End	River Crossing Site
Railway Station, 500 m north of Casino	Station Signal Box
Railway Land	Casino locomotive depot, known as the "Roundhouse", coal bunker and locomotive turntable

Schedule 2 Urban Investigation Criteria

(Clause 9: Zone No 1 (d) Rural (Urban Investigation) Zone, objective C)

Investigation Project No 1

Planning Unit Locality:

Land located adjacent to the northern boundary of the existing township.

Investigation Status: Immediate

Investigation Objectives:

- 1 To confirm the physical suitability of the **planning unit** for urban **development**.
- 2 To confirm the capacity to bring land onto the residential market and the intention of the landowner/

developer.

- 3 To confirm the availability of appropriate utility and community facility infrastructure.
- 4 To complete urban structure planning for the locality.
- 5 To ensure that conversion of the **planning unit** for urban purposes will not detrimentally affect in a significant manner wetlands to the north.

Investigation Project No 2

Planning Unit Locality:

Land sited between the Bruxner Highway and Sextonville Road, west of Lakeside Drive, Woorooloolgan.

Investigation Status: Short-medium term

Investigation Objectives:

- 1 To examine the physical suitability of the **planning unit** for urban **development**.
- 2 To confirm the financial and management capacity, short term considerations and intention of the landowner/developer.
- 3 To confirm the availability of appropriate utility and community facility infrastructure.
- 4 To complete urban structure planning for the locality.
- 5 To thoroughly investigate the feasibility of **development** of any part of the **planning unit** with respect to its impact on land within Zone No 7 (k).

Schedule 3 Closer Rural Settlement Planning Principles

(Clause 15)

A General Principles:

- (1) the **development** should generally be compatible with the land on which it is to be carried out, as indicated on maps prepared by the Department of Agriculture and the Soil Conservation Service of New South Wales, copies of which are deposited in the office of the **Council**,
- (2) the **development** should be of a type compatible with the maintenance and enhancement, as far as is practicable, of the existing rural and scenic character of the Municipality,
- (3) the **development** should not materially reduce the agricultural production potential of the land on which it is to be carried out, or of adjoining land,
- (4) the possible future use of the land and of land in the locality should not be unreasonably prejudiced, particularly in relation to land which contains recoverable extractive resources,
- (5) the **development** should not materially affect any wildlife refuge, significant wetland, or any identified site containing aboriginal archaeological relics,

- (6) the **development** (including access roads) should not create or worsen soil erosion potential through the action of wind or water or the alteration of landform and the development application must specify the measures to be taken to avoid such an effect,
- (7) reticulated electricity should be available to the land and its future occupants,
- (8) the land should be capable of accommodating on-site disposal of domestic waste and the provision of a domestic water supply which is adequate for fire fighting purposes,
- (9) the **development** should not have the possible effect of creating demands for unreasonable or uneconomic provision or extension of public amenities and public services by the **Council**,
- (10) the **development** should not create significant additional traffic or create or increase a condition of ribbon development on any road, particularly on a **main road** or **arterial road**, relative to the capacity, standard and safety of the road,
- (11) the creation of vehicular access to a **main road** or **arterial road** should be minimised and, where no alternative access is available, the location and treatment of the access must minimise potential traffic hazards,
- (12) the **development** should incorporate adequate drainage measures, including sediment and waste control, and prevention of the uncontrolled flow of water across the land or adjoining land,

B Specific Principles With Respect to Subdivision:

- (1) the ratio of depth to frontage of each allotment to be created in the subdivision should be determined having regard to the purpose for which it is to be used, the need to minimise the creation of vehicular access points to **main roads** and **arterial roads** and the need to locate any new access points in safe positions,
- (2) the subdivision should not create or materially increase the potential for ribbon **development** along any road, particularly a **main road** or **arterial road**,
- (3) adequate all weather flood-free access should be available to each allotment created as a result of the subdivision and the access should be located so as to minimise the risk of soil erosion,
- (4) the subdivision should be designed to maximise the retention of natural vegetation in any subsequent **development**, to ensure that any buildings likely to be erected on allotments created by the subdivision are able to be sufficiently separated to maintain the rural character of the locality, and to minimise the potential for significant alterations to the natural landform in any subsequent **development** by way of construction of access driveways, excavations, filling and the like,
- (5) each allotment to be created by the subdivision should include flood-free land for building sites and for movement of any stock during floods,
- (6) each allotment to be created by the subdivision should provide potential building sites with minimum risk of damage by bushfires or soil instability,
- (7) adequate soil erosion control measures should be incorporated in the subdivision, including measures to be carried out prior to the subdivision taking place,

C Specific Principles With Respect to Buildings:

- (1) buildings should be sited and designed and of an appropriate scale so as to maintain the rural character of the locality, to minimise disturbance to the landscape through clearing, earthworks, access roads, the use of platforms or stilts and other similar construction methods to maintain slope stability and to generally fit into their environment to the maximum extent consistent with being sited to minimise flood and bushfire hazards,
- (2) buildings should not intrude into the skyline, when viewed from roads or other public places,
- (3) buildings should be sited in relation to the boundaries of the site, to existing buildings on the site or on adjoining land, and to potential building sites on adjoining land, in order that an over-concentration of buildings is avoided, and that the overall pattern of building **development** maintains the rural character of the locality,
- (4) the curtilages of buildings, wherever possible, should be landscaped or otherwise treated so as to lessen the impact of buildings on their natural or rural setting,
- (5) buildings should be sited in a way that is consistent with the policies set out in the NSW Government Floodplain Development Manual,
- (6) adequate all weather flood-free access should be available to dwellings.

Schedule 4 Restricted development adjacent to arterial roads

(Clause 24)

Abattoirs

Bulk stores

Car repair stations

Caravan parks

Clubs

Commercial premises

Educational establishments

Generating works

Hospitals

Hotels

Industries (other than home industries or rural industries)

Institutions

Junk yards

Liquid fuel depots

Mines

Motels

Motor showrooms

Places of assembly

Places of public worship

Primitive camping grounds

Recreation establishments

Recreation facilities

Refreshment rooms

Retail plant nurseries

Roadside stalls
Sawmills
Service stations
Stock and sale yards
Taverns
Timber yards
Toilet facilities
Transport terminals
Warehouses

Schedule 5 Classification and reclassification of public land as operational

(Clause 33)

Casino

Terminal Parade Lot 1, DP 619161, as shown edged heavy black on the map marked "*Casino Local Environmental Plan 1992 (Amendment No 3)*".