

Narrabri Local Environmental Plan No 5 (Township of Boggabri) (1988 EPI 498)

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New South Wales

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

Authorisation

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New South Wales

Part 1 Preliminary

1 Name of plan

This plan may be cited as *Narrabri Local Environmental Plan No 5 (Township of Boggabri)*.

2 Aims, objectives etc

The general aims, objectives, policies and strategies of this plan are set out in Schedule 1 and the particular objectives of each zone are set out in the Table to clause 9.

3 Land to which plan applies

This plan applies to certain land at Boggabri, in the Shire of Narrabri, as shown edged heavy black on the map marked "*Narrabri Local Environmental Plan No 5 (Township of Boggabri)*".

4 Relationship to other environmental planning instruments

- (1) This plan repeals *Interim Development Order No 1—Shire of Namoi* to the extent to which that Order applies to the land to which this plan applies.
- (2) *Interim Development Order No 1—Shire of Namoi* is amended by inserting at the end of clause 1A the following words:

Narrabri Local Environmental Plan No 5 (Township of Boggabri),

5 Definitions

- (1) In this plan:

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

caravan park has the same meaning as in the *Caravan Parks and Moveable Dwellings Ordinance* under the *Local Government Act 1919*.

Council means the Council of the Shire of Narrabri.

feed lot means a building or place in which or on which cattle, sheep, poultry or any other livestock are held for the purpose of nurturing either wholly or partly by a feeding method other than natural grazing, but does not include a piggery or stock home.

open space means all land held in public ownership for present or intended future use as parks, gardens, sportsgrounds and other active recreation areas as well as playgrounds, bushland reserves and vantage points.

piggery means a place where pigs are kept.

recreation area means:

- (a) a children's playground,
- (b) an area used for sporting activities or sporting facilities, or
- (c) an area used to provide facilities for recreational activities which promote the physical, cultural or intellectual welfare of persons within the community, being facilities provided by:
 - (i) the Council, or
 - (ii) a body of persons associated for the purposes of the physical, cultural or intellectual welfare of persons within the community,

but does not include a racecourse or a showground.

stables means a building or place used for the purpose of receiving, maintaining, boarding or keeping a horse or horses.

stock home means a building or place where animals are bred, trained or accommodated and nurtured for gain or reward except in relation to the use of land for the purposes of agriculture.

the map means the map marked "*Narrabri Local Environmental Plan No 5 (Township of Boggabri)*", as amended by the maps (or, if any sheets of the maps are specified, by the specified sheets of the maps) marked as follows:

Narrabri Local Environmental Plan No 22

Narrabri Local Environmental Plan No 44

Narrabri Local Environmental Plan No 47

(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.

6 Model Provisions

The *Environmental Planning and Assessment Model Provisions 1980*, except the definition of **map** in clause 4 (1) and clauses 7, 29 and 36, are adopted for the purposes of this plan.

7 Consent authority

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

Part 2 General restrictions on development of land

8 Zones indicated on the map

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

Zone No 1 (a) (Rural "A" Zone)—coloured light brown and lettered "1 (a)".

Zone No 1 (c) (Rural "C" (Small Holdings) Zone)—coloured light brown with dark red edging and lettered "1 (c)".

Zone No 1 (d) (Rural "D" (Floodway) Zone)—coloured light brown with dark red edging and lettered "1 (d)".

Zone No 1 (e) (Rural "E" (Future Urban) Zone)—coloured light brown with dark red edging and lettered "1 (e)".

Zone No 2 (a) (Residential "A" Zone)—coloured light scarlet with dark red edging and lettered "2 (a)".

Zone No 2 (d) (Residential "D" Zone)—coloured light scarlet with dark red edging and lettered "2 (d)".

Zone No 3 (a) (General Business Zone)—coloured light blue with black edging and lettered "3 (a)".

Zone No 4 (a) (General Industrial Zone)—coloured purple with black edging and lettered "4 (a)".

Zone No 4 (b) (Light Industrial Zone)—coloured purple with red edging and lettered "4 (b)".

Zone No 5 (a) (Special Uses "A" Zone)—coloured yellow with dark red lettering.

Zone No 5 (b) (Special Uses "B" (Railway) Zone)—coloured blue-purple with black

edging and lettered “5 (b)”.

Zone No 6 (a) (Open Space (Existing Recreation) Zone)—coloured dark green with black edging and lettered “6 (a)”.

Zone No 6 (b) (Open Space (Private Recreation) Zone)—coloured dark green with yellow edging and lettered “6 (b)”.

9 Zone objectives and development control table

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

Table

Zone No 1 (a) (Rural “A” Zone)

1 Objectives of zone

The objective is to encourage agriculture and agriculture related land uses (without restrictions except in respect of the intensive keeping of animals which requires consent of the Council).

2 Without development consent

Agriculture (except feed lots, piggeries, poultry farming, stock homes or any other intensive keeping of animals); drainage; forestry.

3 Only with development consent

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

4 Prohibited

Abattoirs; boarding-houses; bulk stores; car repair stations; commercial premises; generating works; industries (other than home industries); junk yards; recreational establishments; residential flat buildings; road transport terminals; service stations; shops; warehouses.

Zone No 1 (c) (Rural “C” (Small Holdings) Zone)

1 Objectives of zone

The objectives are:

- (a) to make provision for rural small holdings in appropriate locations, and
- (b) to allow within the zone small holdings which:
 - (i) are fully compatible with the existing town structure of Boggabri,
 - (ii) do not place demands on services beyond the level reasonably required, and
 - (iii) do not conflict with agricultural activities within the zone.

2 Without development consent

Nil.

3 Only with development consent

Agriculture (other than feed lots, piggeries, poultry farming or animal boarding establishments); drainage; dwelling-houses; home industries; roads; utility installations (other than gas holders or generating works).

4 Prohibited

Any purpose other than a purpose included in Item 3.

Zone No 1 (d) (Rural “D” (Floodway) Zone)

1 Objectives of Zone

The objectives are:

- (a) to establish a series of obstacle-free floodways, being floodways which are a vital component of the flood mitigation programme for the town of Boggabri, and

(b) to allow within the zone a range of uses which can still be carried out without conflicting with the basic objectives of the zone.

2 Without development consent

Nil.

3 Only with development consent

Agriculture (other than feed lots, piggeries, poultry farming, stock homes or any other intensive keeping of animals); drainage; extractive industries; open space; recreation areas; public utility undertakings; roads.

4 Prohibited

Any purpose other than a purpose included in Item 3.

Zone No 1 (e) (Rural “E” (Future Urban) Zone)

1 Objectives of zone

The objective is to identify land for future urban development.

2 Without development consent

Agriculture (other than feed lots, poultry farming and piggeries).

3 Only with development consent

Dwelling-houses; forestry; home industries; roadside stalls; utility installations (other than gas holders or generating works).

4 Prohibited

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

Zone No 2 (a) (Residential “A” Zone)

1 Objectives of zone

The objectives are:

(a) to allow for low density housing, and

(b) to allow within the zone a range of non-residential uses which:

(i) are capable of visual integration with the surrounding environment,

- (ii) serve the needs of the surrounding population without conflicting with the basic objectives of the zone, and
- (iii) do not place demands on services beyond the level reasonably required for residential use.

2 Without development consent

Dwelling-houses.

3 Only with development consent

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

4 Prohibited

Abattoirs; advertising structures; boarding-houses; bulk stores; camping grounds; car repair stations; caravan parks; cemeteries; clubs registered under the *Registered Clubs Act 1976*; commercial premises; crematoria; educational establishments (except museums, galleries and academics); extractive industries; funeral parlours; generating works; helipads; heliports; holiday cabins; hotels; industries (other than home industries); institutions; junk yards; liquid fuel depots; mines; motels; motor showrooms; offensive or hazardous industries; piggeries or any other intensive keeping of animals; places of assembly; public buildings; recreation facilities; refreshment rooms; residential flat buildings (other than units for aged or disabled persons); retail markets; retail plant nurseries; roadside stalls; sawmills; service stations; shops (other than general stores having a gross floor area not greater than 100 square metres); stock and sale yards; taverns; timber yards; transport terminals; warehouses; waste disposal; wholesale markets.

Zone No 2 (d) (Residential “D” Zone)

1 Objectives of zone

The objectives are:

- (a) to allow for a variety of housing forms from low density detached housing to medium density housing, and
- (b) to allow within the zone detached housing, residential flat buildings and motels.

2 Without development consent

Dwelling-houses.

3 Only with development consent

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

4 Prohibited

Abattoirs; advertising structures; bulk stores; camping grounds; car repair stations; caravan parks; cemeteries; clubs registered under the [Registered Clubs Act 1976](#); crematoria; commercial premises; educational establishments (except museums, galleries and academies); extractive industries; funeral parlours; generating works; helipads; heliports; holiday cabins; hotels; industries (other than home industries); institutions; junk yards; liquid fuel depots; mines; motor showrooms; offensive or hazardous industries; piggeries; poultry farming; public buildings; recreation establishments; recreation facilities; refreshment rooms; retail markets; retail plant nurseries; roadside stalls, rural industries; rural workers' dwellings; sawmills; shops; stock and sale yards; taverns; timber yards; transport terminals; veterinary hospitals; veterinary surgeons' establishments; warehouses; waste disposal; wholesale markets.

Zone No 3 (a) (General Business Zone)

1 Objectives of zone

The objective is to provide for commercial development to serve the needs of the Town of Boggabri.

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose included in Item 4.

4 Prohibited

Abattoirs; bulk stores; dwelling-houses and residential flat buildings (other than those used in conjunction with commercial premises); extractive industries; generating works; industries (other than home industries and light industries); institutions; junk yards; liquid fuel depots; mines; piggeries;

poultry farming and other intensive keeping of animals; road transport terminals; sawmills; stock and sale yards; timber yards; waste disposal.

Zone No 4 (a) (General Industrial Zone)

1 Objectives of zone

The objectives are:

- (a) to provide for industrial development, with the exception of extractive industries,
- (b) to ensure that industrial development is located and undertaken in an environmentally appropriate manner, and
- (c) to provide for the retailing of goods manufactured or processed on the same site as the development.

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose included in Item 4.

4 Prohibited

Airline terminals; boarding-houses; camping grounds; caravan parks; dwelling-houses and residential flat buildings (other than those used in conjunction with and situated on the same land as an industry); extractive industries; hospitals; hotels; institutions; mines; motels; places of assembly; recreation establishments; recreation facilities; roadside stalls; rural workers' dwellings; shops (other than conjoint shops having a gross floor area not greater than 100 square metres); taverns; tourist facilities; units for aged persons; veterinary hospitals; veterinary surgeons' establishments.

Zone No 4 (b) (Light Industrial Zone)

1 Objectives of zone

The objectives are:

- (a) to provide for light industrial development which is compatible with residential areas which are located in close proximity,

(b) to encourage the development of a high standard of industrial building design, and

(c) to prohibit offensive and hazardous industries as well as extractive industries in order to achieve the above objectives.

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose included in Item 4.

4 Prohibited

Airline terminals; boarding-houses; camping grounds; caravan parks; child care centres; clubs; community halls; dwelling-houses and residential flat buildings (other than those used in conjunction with an industry and situated on the same land as the industry); hospitals; hotels; industries (other than light industries); institutions; junk yards; mines; motels; places of assembly; places of public worship; professional consulting rooms; recreation establishments; recreation facilities (other than indoor recreation facilities); roadside stalls; rural workers' dwellings; shops (other than conjoint shops having a gross floor area not greater than 100 square metres); taverns; tourist facilities; units for aged persons; waste disposal.

Zone No 5 (a) (Special Uses "A" Zone)

1 Objectives of zone

The objective is to identify the need for and provide for adequate and efficient utility services and community facilities.

2 Without development consent

Nil.

3 Only with development consent

The particular purpose indicated by dark red lettering on the map.

4 Prohibited

Any purpose other than a purpose included in Item 3.

Zone No 5 (b) (Special Uses “B” (Railway) Zone)

1 Objectives of zone

The objective is to provide for railway services and associated services.

2 Without development consent

Nil.

3 Only with development consent

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

4 Prohibited

Any purpose other than a purpose included in Item 3.

Zone No 6 (a) (Open Space (Existing Recreation) Zone)

1 Objectives of zone

The objective is to identify public land which is set aside principally for the purposes of public recreation.

2 Without development consent

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

3 Only with development consent

Buildings for the purpose of landscaping, gardening or bushfire hazard reduction; clubs and associated buildings; racecourses; recreation areas; recreation facilities; refreshment rooms; tourist facilities.

4 Prohibited

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

Zone No 6 (b) (Open Space (Private Recreation) Zone)

1 Objectives of zone

The objective is to identify private land which is set aside for recreational purposes.

2 Without development consent

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

3 Only with development consent

Buildings for the purpose of landscaping, gardening or bushfire hazard reduction; clubs; racecourses; recreation areas; recreation facilities; tourist facilities.

4 Prohibited

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

Part 3 Special provisions

Division 1 Development generally

10 Height of buildings

A person shall not erect a building containing more than 2 storeys above ground level without the consent of the Council.

10A What is exempt and complying development?

- (1) Development of minimal environmental impact listed as exempt development in *Development Control Plan 1/2000* as adopted by the Council on the 16 August 2000 is **exempt development**, despite any other provision of this plan.
- (2) Development listed as complying development in *Development Control Plan 1/2000* as adopted by the Council on the 16 August 2000 is **complying development** if:
 - (a) it is local development of a kind that can be carried out with consent on the land on which it is proposed, and
 - (b) it is not an existing use, as defined in section 106 of the Act.
- (3) Development is exempt or complying development only if it complies with the development standards and other requirements applied to the development by *Development Control Plan 1/2000* as adopted by the Council on the 16 August 2000.
- (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 1/2000* adopted by the Council, as in force when the certificate is issued.

11 Control of development on frontages to a main or arterial road

- (1) This clause applies to land within Zone No 1 (a).
- (2) A hotel, motel or caravan park shall not be erected on an allotment of land to which this clause applies unless the allotment has an area of not less than 4 hectares and a frontage to a main or arterial road of not less than 200 metres.
- (3) A building shall not be erected on an allotment of land to which this clause applies if the distance between the proposed building and the nearest alignment of a main or arterial road or of a road connecting with a main or arterial road would be less than:
 - (a) where the building is erected for the purpose of a hotel, motel or caravan park—46 metres, or
 - (b) where the building is erected for any other purpose (other than a purpose referred to in clause 12)—18 metres.
- (4) Nothing in this clause affects the provisions of the *Environmental Planning and Assessment Model Provisions 1980* in so far as they relate to the setback of development for certain purposes from main or arterial roads, and those provisions prevail to the extent of any inconsistency with this clause.

12 Prohibited development on main or arterial roads

Development shall not be carried out on land which is within Zone No 1 (a) and within 400 metres of a main or arterial road:

- (a) for the purpose of boarding-houses, bus depots, extractive industries, generating works, hospitals, hotels, institutions, liquid fuel depots, motor showrooms, offensive or hazardous industries, places of public worship, residential flat buildings, roadside stalls, sawmills, stock and saleyards, timber yards, utility installations or waste disposal, or
- (b) for the purpose of access from development for such a purpose to a main or arterial road.

13 Community use of school sites etc

Notwithstanding any other provision of this plan, a person may, with the consent of the Council, carry out development for the purpose of:

- (a) the community use of the facilities and sites of schools, colleges and other educational establishments,
- (b) the commercial operation of those facilities and sites, and
- (c) community purposes on land used for the purposes of schools, colleges or other educational establishments, whether or not the development is ancillary to any such

purpose.

Division 2 Subdivision

14 Subdivision of land generally

- (1) A person shall not subdivide land except with the consent of the Council.
- (2) The Council shall not consent to the subdivision of land unless it is satisfied that the land is to be used for a purpose for which development is permitted (whether or not with the consent of the Council) within the zone in which the land is situated.

15 Subdivision of land within Zone No 1 (a), 1 (c), 1 (d) or 1 (e)

- (1) A person shall not subdivide land within Zone No 1 (a), 1 (d) or 1 (e) unless the area of each allotment to be created by the subdivision will be not less than 40 hectares.
- (2) A person shall not subdivide land within Zone No 1 (c) unless the area of such allotment to be created by the subdivision will be not less than 2 hectares.

16 Subdivision of land within Zone No 2 (a), 2 (d), 3 (a) or 4 (b)

In respect of any application for the subdivision of land within Zone No 2 (a), 2 (d), 3 (a) or 4 (b), the Council may, as a condition of consent, require the provision of an electricity reticulation system satisfying the requirements of the Namoi Valley County Council, including the provision of sites for electricity substations and easements for access and electricity mains in favour of and without cost to the Namoi Valley County Council.

Division 3 Dwellings

17 Dwelling-houses in Zone No 1 (a) or 1 (c)

- (1) A person shall not erect a dwelling-house on an allotment of land within Zone No 1 (a) unless the land has an area of not less than 40 hectares.
- (2) A person shall not erect a dwelling-house on an allotment of land within Zone No 1 (c) unless the land has an area of not less than 2 hectares.

18 Residential development

- (1) In this clause, a reference to the area of an allotment does not, in the case of a hatchet-shaped allotment, include a reference to the area of the access corridor of the allotment.
- (2) A person shall not carry out development for the purposes of a dwelling-house on an allotment of land within Zone No 2 (a) or 2 (d) unless:
 - (a) in the case of a hatchet-shaped allotment—the area of the allotment is not less than 650 square metres, or

(b) in the case of any other allotment—the area of the allotment is not less than 600 square metres and the allotment has a width of not less than 15 metres at the front alignment of the building.

(3) A person shall not carry out development for the purposes of a residential flat building on an allotment of land within Zone No 2 (d) unless the allotment has an area of not less than 740 square metres and a width (not including any access corridor) of not less than 18 metres at the front alignment of the building.

Division 4 General

19 Suspension of certain laws

(1) For the purpose of enabling development to be carried out in accordance with this plan (as in force when the development is carried out) or in accordance with a consent granted under the Act, any covenant, agreement or instrument imposing restrictions as to the erection or use of buildings on land for certain purposes or as to the use of land for certain purposes, to the extent necessary to serve the purpose, shall not apply to any such development.

(2) Pursuant to section 28 of the Act, before the making of this plan the Governor approved the subclause (1).

20 Use of certain building—Wee Waa Street, Boggabri

(1) Notwithstanding any other provision of this plan, a person may, with the consent of the Council, use the building located (on the date on which *Narrabri Local Environmental Plan No 20* commenced) on the land known as Lot 3B, Section 34, Wee Waa Street, Boggabri, for any purpose that is a purpose for which development may be carried out (with or without the consent of the Council) on land within Zone No 3 (a) (General Business Zone).

(2) A person must not replace that building or extend it or carry out any substantial repairs to it, unless the replacement or extension or repairs are for a purpose for which development may be carried out (with or without the consent of the Council) on land within Zone No 2 (a) (Residential “A” Zone).

Schedule 1 Aims, objectives etc

(Clause 2)

1 The aims, objectives, policies and strategies of this plan are, with respect to the land to which this plan applies, the following:

(a) generally:

(i) to provide a high quality living environment for the residents of Boggabri, reflecting the needs and aspirations of present and future residents and the physical capacity of the land,

- (ii) to plan for realistic future growth of Boggabri in the provision of zoned land areas,
 - (iii) to protect the town of Boggabri through appropriate development control provisions in respect of flood-prone lands, thereby reducing the risk of life and damage to property as a result of flooding,
 - (iv) to maintain Boggabri's role as a service centre to surrounding rural areas and as a supplier of the needs of its townspeople,
 - (v) to guide the Council in land use decisions,
 - (vi) to provide a clear indication to property owners and developers on the future pattern of land use,
 - (vii) to give the Council the statutory power to control land use, and
 - (viii) to facilitate the application of appropriate development controls to encourage and enable orderly and attractive urban development, control plans and relevant codes,
- (b) specifically:
- (i) to ensure that natural constraints to development are recognised and to minimise incompatible development,
 - (ii) to exploit any features of the natural environment that are conducive to particular forms of land use, such as highly productive soils being appropriate for agricultural use, undulating land offering potential for residential use in an attractive setting, stable soils being suitable for construction, elevated land offering possibilities for reducing flood danger, and for other purposes,
 - (iii) to encourage aesthetically pleasing development that harmonises with the natural and neighbouring man-made environments, incorporating diversity in style and designed at an appropriate human scale,
 - (iv) to conserve cultural, historical, archaeological and scenic features of the Boggabri environment for continued enjoyment of residents and visitors to Boggabri,
 - (v) to provide the opportunity for accommodating a range of recreation activities appropriate to the scale of the community and the needs of differing community groups,
 - (vi) to ensure the provision of adequate open space within the town of Boggabri as a contrast to the built environment, and as a recreational facility,
 - (vii) to provide areas of land for residential, commercial, industrial and other land uses, so as to meet anticipated demands based on predicted population and economic growth of the town of Boggabri,
 - (viii) to recognise realistic economic constraints in terms of land budgets, development standards and phasing,
 - (ix) to design for the economic phasing of new areas with respect to existing utilities and services and constructed roads,

- (x) to ensure good access from all areas, in particular residential areas, to all necessary facilities and resources within the town and its surrounding area,
- (xi) to provide for efficient, safe and appropriately routed traffic flows through the town of Boggabri,
- (xii) to reduce the severity of flooding in Boggabri through reduction of obstruction to floodways, and appropriate low intensity land use zoning in flood prone areas,
- (xiii) to allow the expansion of existing community facilities, in particular health and education facilities, and the establishment of new facilities to answer changing community needs within the provisions of this plan,
- (xiv) to cater particularly, in terms of existence and location of facilities and transport links to them, for groups within the community with special needs.

2 The zoning of land which the plan effects is designed to serve the following purposes:

- (a) firstly, it is intended to relate to existing uses, whereby in all but the most severely affected flood-labile areas of the town of Boggabri existing uses can be maintained under the provisions of the proposed zones,
- (b) secondly, it is intended to provide long-term guidance and opportunity for change to achieve an improved pattern of land use in the town of Boggabri and to provide the zonings required for town growth because Boggabri has outgrown the stage where the limited guidance and control provided by the former Village Zoning was sufficient and the more specific zonings effected by this plan provide the structure which is necessary.