

Ulmarra Local Environmental Plan 1992

[1992-52]



New South Wales

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Ulmarra Local Environmental Plan 1992



New South Wales

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Ulmarra Local Environmental Plan 1992



New South Wales

Part 1 Preliminary

1 Name of plan

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

2 Aims, objectives etc

The aims and objectives of this plan are:

- (a) to consolidate the provisions of certain environmental planning instruments applying to the land to which this plan applies within a single local environmental plan, and
- (b) to rezone land to enable further development to take place in the Shire of Ulmarra in a planned manner so that services may be economically provided, and
- (c) to encourage the proper management, development and conservation of natural and man-made resources within the Shire of Ulmarra by protecting or conserving:
 - (i) prime crop and pasture land,
 - (ii) timber, mineral, soil, water and other natural resources,
 - (iii) areas of ecological significance,
 - (iv) areas of high scenic or recreational value, and
 - (v) places of archaeological or heritage significance.

3 Land to which plan applies

This plan applies to the whole of the land within the Shire of Ulmarra shown on the map with boundaries as indicated on the map.

4 Relationship to other environmental planning instruments

This plan repeals:

- (a) *Interim Development Order No 1—Shire of Ulmarra*,

- (b) Ulmarra Local Environmental Plans Nos 1-19, and
- (c) such other local environmental plans and deemed environmental planning instruments as, immediately before the appointed day, applied to the land to which this plan applies, but to the extent only to which they so applied to that land.

5 Definitions

- (1) In this plan:

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

alter, in relation to a heritage item, means:

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

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

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

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

arterial road means an existing road indicated on the map by heavy broken black lines and listed in Schedule 1.

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

commercial farming means the use of an area of land predominantly for an efficient sustainable agricultural purpose.

Council means the Council of Pristine Waters, subject to subclause (3).

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.

Development Control Plan No 3: Exempt and Complying Development means *Development Control Plan No 3: Exempt and Complying Development* as adopted by Council on 18 April 2001.

dual occupancy, in relation to an allotment or portion of land, means:

- (a) if no dwelling or dwelling-house exists on the allotment or portion—the erection of 2 attached dwellings on that allotment or portion, or
- (b) if a dwelling-house exists on an allotment or portion—the carrying out of alterations or additions to the existing dwelling-house so as to create 2 attached dwellings on that allotment or portion.

duplex means a building containing 2, but not more than 2, attached dwellings.

existing holding means:

- (a) except as provided by paragraph (b)—the area of a lot, portion or parcel of land as it was at 5 September 1969, or
- (b) where, as at 5 September 1969, 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 on that day.

flood prone land means land which is below the 1 in 100 year flood level.

flood way means an area where a significant volume of water flows during a flood.

heritage item means a building, work, relic, tree or place of heritage significance to the Shire of Ulmarra as described in Schedule 2.

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

horticulture means fruit and vegetable farming, and includes plant propagation, plant breeding, ornamental floriculture and landscape horticulture.

intensive animal husbandry includes cattle feed lots, sheep feed lots, piggeries in

which pigs are intensively grown, commercial poultry operations and other intensive keeping of animals, but does not include temporary agistment or feeding arrangements during flood or drought.

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

miscellaneous forestry means operations involving the harvesting of native forests but does not include operations involving:

- (a) the reduction in the canopy of a forest below a level of 20 per cent, or
- (b) the clearfelling of an area in excess of 2 hectares.

piggery means:

- (a) a building or place in or on which 5 or more pigs are kept and which is situated on land that is less than 4 hectares in area, or
- (b) a building or place in or on which at least one boar is kept and which is used for commercial pig breeding purposes,

but does not include an abattoir or slaughter house.

poultry farm means:

- (a) a building or place in or on which more than 20 poultry birds or ducks (or both) are kept, or
- (b) a building or place which is used for commercial poultry breeding purposes.

prime crop and pasture land means land within an area identified on a map prepared by or on behalf of the Director-General of the Department of Agriculture and Fisheries (deposited in an office of the Department of Agriculture and Fisheries and a copy of which is deposited in the office of the Council) as Class 1, Class 2 or Class 3 land, or as land of merit for special agricultural uses, but does not include land which the Director-General has notified the Council in writing is not prime crop and pasture land for the purposes of this plan.

relic means any deposit, object or material evidence relating to the settlement of the area of the Shire of Ulmarra which is 50 or more years old.

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

the map means the series of maps marked "*Ulmarra Local Environmental Plan 1992*", as amended by the maps (or the specified sheets of the maps, if any) 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.

Ulmarra Local Environmental Plan 1992 (Amendment No 3)

Ulmarra Local Environmental Plan 1992 (Amendment No 5)

(2) In this plan:

- (a) a reference to a building or place used for a purpose includes a reference to a building or place intended to be used for a purpose,
- (b) a reference to a map is a reference to a map deposited in the office of the Council,
- (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, and
- (d) a reference to the 1 in 100 year flood level is, in relation to land, a reference to the height above Australian Height Datum to which the Water Administration Ministerial Corporation or Public Works Department has determined that a 1 in 100 year flood is likely to rise in respect of that land or to a height as determined by the Council.

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

6 Adoption of Model Provisions

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

- (a) the definitions of **arterial road** and **map** in clause 4 (1), and
- (b) clauses 29, 30 and 33 (2) (b),

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) (General Rural Zone)—coloured light brown, edged in black and marked “1 (a)”.

Zone No 1 (d) (Rural “D” (Smallholdings) Zone)—coloured light brown, edged in black and marked “1 (d)”.

Zone No 1 (e) (Rural “E” (Urban Investigation) Zone)—coloured light brown, edged in black and marked “1 (e)”.

Zone No 1 (f) (Rural (Forests) Zone)—coloured light brown, edged in black and marked “1 (f)”.

Zone No 2 (Village Zone)—edged in black and marked “V”.

Zone No 3 (b) (Business Zone)—edged dark green and marked “3 (b)”.

Zone No 4 (General Industrial Zone)—coloured purple, edged in black and marked “4”.

Zone No 6 (a) (Open Space Zone)—coloured dark green, edged in black and marked “6 (a)”.

Zone No 7 (f1) (Environmental Protection (Coastal Lands Protection) Zone)—coloured orange, edged in black and marked “7 (f1)”.

Zone No 8 (a) (National Parks and Nature Reserves Zone)—uncoloured with heavy black and dark green edging and marked “8 (a)”.

Zone No 8 (b) (National Park (Proposed) Zone)—uncoloured with heavy black and light green edging and marked “8 (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) (General Rural Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to enable development for purposes that are:
 - (i) appropriate in a rural location, and
 - (ii) sympathetic with the environmental characteristics of the land and the costs of providing public services and amenities,
- (b) to promote efficient, sustainable, agricultural utilisation of agricultural land, particularly prime crop and pasture land,
- (c) to control development that may restrict the function of, or create traffic hazards along, arterial roads in rural localities,
- (d) to conserve prime crop and pasture land by ensuring that:
 - (i) it is not unnecessarily converted to non-agricultural uses, and
 - (ii) any allotment created for an intensive agricultural pursuit is potentially capable of sustaining a range of such purposes or other agricultural purposes suitable to the locality,
- (e) to protect or conserve:
 - (i) soil stability, by controlling development in accordance with soil capability,
 - (ii) forests of commercial value for timber production,
 - (iii) trees and other vegetation in environmentally sensitive areas, where the conservation of the vegetation is likely to reduce land degradation,
 - (iv) water resources, and
 - (v) wetlands identified in *State Environmental Planning Policy No 14—Coastal Wetlands* and estuarine wetlands and to allow them to

continue to function as feeding and breeding areas for wildlife, shellfish and fish,

- (f) to prohibit development within the zone that is likely to have a detrimental effect on the habitat or landscaping qualities or the flood mitigation function of wetlands,
- (g) to enable the development of land for other purposes where it can be demonstrated by the applicant for development consent that suitable land or buildings are not available elsewhere and that such use will not detrimentally affect the amenity of any existing or proposed nearby development, and
- (h) to exclude urban development on all prime crop or pasture land, excepting for land adjacent to existing urban areas and identified by appropriate studies as generally suitable for urban expansion.

2 Without development consent

Agriculture (other than intensive animal husbandry); bush fire hazard reduction; dual occupancies; forestry.

3 Only with development consent

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

4 Prohibited

Except as otherwise provided in the Table, all purposes unless the Council is satisfied that the carrying out of the development is generally consistent with one or more of the objectives of this zone.

Without in anyway limiting or restricting the generality of this item, the following purposes have been identified as being inconsistent with one or more of the objectives of this zone:

Boarding-houses; motor showrooms; residential flat buildings; shops (other than general stores and kiosks within caravan parks; warehouses.

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

1 Objectives of zone

The objectives of this zone are:

- (a) to set aside certain land for the purposes of smallholdings, hobby farms

and a range of other compatible uses within areas that are suitable for that type of development,

- (b) to encourage closer rural settlement on land which the Council considers suitable for such a purpose, and
- (c) to enable development of the land for other purposes where it can be demonstrated by the applicant for development consent that suitable land or buildings for the proposed purpose are not available elsewhere and that such a use will not detrimentally affect the rural residential character of nearby land.

2 Without development consent

Agriculture (other than pig keeping, poultry farming or intensive animal husbandry); bushfire hazard reduction; dual occupancies.

3 Only with development consent

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

4 Prohibited

Except as otherwise provided in this Table, all purposes unless the Council is satisfied that the carrying out of the development is generally consistent with one or more of the objectives of this zone.

Without in anyway limiting or restricting the generality of this item, the following purposes have been identified as being inconsistent with one or more of the objectives of the zone:

Bulk stores; car repair stations; commercial dog boarding, breeding or training kennels; commercial premises; extractive industries; forestry; hotels; industries (other than home industries); institutions; junk yards; liquid fuel depots; lot feeding of livestock; motor showrooms; pig keeping; places of assembly; poultry farming; sawmills; service stations; shops (other than general stores); stock and sale yards; timber yards; transport terminals; warehouses.

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

1 Objectives of zone

The objectives of this zone are:

- (a) to identify land which may be needed in the future for urban land uses,
- (b) to regulate the subdivision and use of land so as to prohibit development which could prejudice the possible future release of land within this zone for urban purposes,
- (c) to ensure that the release of land for urban purposes, by rezoning, shall not take place unless:
 - (i) sufficient demand exists for the release of urban land, and
 - (ii) appropriate urban infrastructure and facilities are available to the land or can be provided to the land in a manner which does not create an unreasonable or uneconomic demand, or both, for the provision or extension of such services, and
- (d) to enable the development of the land for other purposes where it can be demonstrated by the applicant for development consent that suitable land or buildings for the proposed purpose are not available elsewhere and that such a use would not detrimentally affect the potential for the land to be rezoned, or the nature of nearby land.

2 Without development consent

Agriculture (other than intensive animal husbandry); bush fire hazard reduction; forestry.

3 Only with development consent

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

4 Prohibited

Except as otherwise provided in this Table, all purposes unless the Council is satisfied that the carrying out of the development is generally consistent with one or more objectives of this zone.

Without in anyway limiting or restricting the generality of this item, the following purposes have been identified as being inconsistent with one or more of the objectives of the zone:

Bulk stores; liquid fuel depots; mines; sale yards; service stations; shops; warehouses.

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

1 Objectives of zone

The objectives of this zone are:

- (a) to identify land dedicated under the *Forestry Act 1916* as a state forest,
- (b) to enable the development of land within the zone for forestry purposes, and
- (c) to enable the development of land for other purposes where it can be demonstrated by the applicant for development consent that suitable land or buildings for the proposed purpose are not available elsewhere and that such a use will not detrimentally affect forestry operations on nearby lands.

2 Without development consent

Agriculture (other than intensive animal husbandry or horticulture); any purpose authorised under the *Forestry Act 1916*; and any purpose ancillary or incidental to such a purpose; bushfire hazard reduction.

3 Only with development consent

Any purpose (not included in item 2) that will not adversely affect the usefulness of the land for the purposes of forestry.

4 Prohibited

Excepted as otherwise provided in this Table, all purposes unless the Council is satisfied that the carrying out of the development is generally consistent with one or more of the objectives of this zone.

Zone No 2 (Village Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to recognise existing villages,
- (b) to enable the future expansion and development of land within this zone for residential, commercial, special or tourist use and other urban purposes,
- (c) to ensure, in the case of areas not provided with reticulated water or a sewerage service, that development is at a density appropriate to the

capacity of the land to absorb such development, and

- (d) to enable the development of the land for other purposes where it can be demonstrated by the applicant for development consent that suitable land or buildings for the proposed purpose are not available elsewhere and that such a use will not detrimentally affect the amenity of existing or proposed nearby development.

2 Without development consent

Bushfire hazard reduction.

3 Only with development consent

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

4 Prohibited

Except as otherwise provided in this Table, all purposes unless the Council is satisfied that the carrying out of the development is generally consistent with one or more of the objectives of this zone.

Without in anyway limiting or restricting the generality of this item, the following purposes have been identified as being inconsistent with one or more of the objectives of the zone:

Extractive industries; forestry; institutions; intensive animal husbandry; junk yards within 90 metres of an arterial road; mines; offensive or hazardous industries; pig keeping; poultry farming.

Zone No 3 (b) (Business Zone)

1 Objectives of zone

The objectives are:

- a to encourage the development and expansion of business activities which will contribute to economic growth and employment opportunities within the local government area of Ulmarra, and
- b to facilitate the establishment of retail, commercial and professional services to meet the needs of the community and which are compatible with the surrounding environment, and
- c to provide for forms of business activities normally located on the fringe of the central business district, and

- d to facilitate the establishment of services required by the travelling public and the tourist industry and for the development of facilities for refreshment, accommodation, recreation and amusement, and
- e to permit non-commercial development within the zone where such development is compatible with the commercial character of the locality, and
- f to encourage development which enhances the character of the Corindi business centre, and
- g to allow detailed provision to be made, by means of a development control plan, to set aside specific areas within the zone for particular intensities of commercial, retail and other uses.

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose included in Item 4.

4 Prohibited

Abattoirs; animal establishments; caravan parks; extractive industries; generating works; heliports; hospitals; industries (other than light industries); institutions; junk yards; mines; recreation establishments; residential flat buildings (other than those containing commercial premises or shops); roadside stalls; sawmills; stock and sale yards; transport terminals (other than bus stations and bus depots).

Zone No 4 (General Industrial Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to set aside certain land for the purposes of industries (other than offensive or hazardous industries),
- (b) to encourage local employment within the Shire, and
- (c) to enable the development of the land for other purposes where it can be demonstrated by the applicant for the development consent that

suitable land or buildings for the proposed purpose are not available elsewhere and that such a use would not detrimentally affect any nearby industrial land.

2 Without development consent

Agriculture; bushfire hazard reduction.

3 Without development consent

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

4 Prohibited

Except as otherwise provided in this Table, all purposes unless the Council is satisfied that the carrying out of the development is generally consistent with one or more of the objectives of this zone.

Without in anyway limiting or restricting the generality of this item, the following purposes have been identified as being inconsistent with one or more of the objectives of the zone:

Boarding-houses; caravan parks; educational establishments; hospitals; institutions; motels; places of assembly; roadside stalls.

Zone No 6 (a) (Open Space Zone)

1 Objectives of this zone

The objectives of this zone are:

- (a) to recognise publicly owned land used or capable of being used for recreational purposes,
- (b) to ensure that there is an adequate provision of open space areas to meet the present open space and recreational needs of all residents,
- (c) to enable the development of land for purposes associated with recreation,
- (d) to provide opportunities to enhance the total environmental quality of the Shire of Ulmarra,
- (e) to ensure that there is adequate provision of both active and passive open space to serve the present and future recreational needs of residents and visitors,

- (f) to protect littoral rainforests occurring in the zone,
- (g) to prevent development which would adversely affect, or be adversely affected by, in both the long and short term, coastal processes,
- (h) to protect and preserve areas of urban bushland which are considered valuable in terms of their natural heritage significance and recreational, educational, aesthetic and scientific value, and
- (i) to enable the development of the land for other purposes where it can be demonstrated by the applicant for development consent that suitable lands or buildings for the proposed purpose are not available elsewhere and that such a use can be designed to minimise the impact of the development on the land and nearby land.

2 Without development consent

Bushfire hazard reduction; drainage; picnic facilities; roads; works for the purpose of landscaping, gardening or environmental protection.

3 Only with development consent

Caravan and camping grounds; public utility undertakings. Any purpose other than a purpose specified or referred to in item 2 or 4.

4 Prohibited development

Except as otherwise provided in this Table, all purposes unless the Council is satisfied that the carrying out of the development is generally consistent with one or more of the objectives of this zone.

Zone No 7 (f1) (Environmental Protection (Coastal Lands Protection) Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to enable the development of land, identified for protection under the Coastal Lands Protection Scheme, only for purposes where it can be shown that the activity will not adversely affect, or be adversely affected by, the coastal processes, and
- (b) to enable the development of land for other purposes where it can be demonstrated by the applicant for development consent that suitable

land or buildings for the proposed purpose are not available elsewhere and that steps are taken to minimise the impact of the development on the land and the nearby land.

2 Without development consent

Agriculture; bushfire hazard reduction.

3 Only with development consent

Camping grounds; caravan parks; dams; drainage; dwelling-houses; extractive industries; forestry; golf courses; home industries; mining; roads; 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 8 (a) (National Parks and Nature Reserves Zone)

1 Objectives of zone

The objective of this zone is to enable the development of land reserved under the *National Parks and Wildlife Act 1974* and to protect those lands so identified.

2 Without development consent

Any purpose authorised by or under the *National Parks and Wildlife Act 1974* or any purpose ancillary or incidental to such a purpose.

3 Only with development consent

Nil.

4 Prohibited

Any purpose other than a purpose included in item 2.

Zone No 8 (b) (National Park (Proposed) Zone)

1 Objectives of the zone

The objectives of this zone are:

- (a) to conserve the natural characteristics of land which is proposed to be acquired for reservation or dedication under the *National Parks and*

Wildlife Act 1974 as a national park or nature reserve, and

- (b) to retain the productive use of such land provided its conservation value is not impaired.

2 Without development consent

Agriculture (other than intensive animal husbandry, the clearing of trees and native vegetation, or the erection of buildings associated with agriculture); bushfire hazard reduction; development carried out by or on behalf of the National Parks and Wildlife Service.

3 Only with development consent

Buildings or works for the purposes of agriculture (other than the clearing of trees and native vegetation); miscellaneous forestry; roads; utility installations (other than gas holders or generating works).

4 Prohibited

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

Part 3 Special provisions

10 Subdivision generally

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

11 Subdivision of land within Zone No 1 (a)

- (1) The Council shall not consent to the subdivision of land within Zone No 1 (a) unless each allotment to be created by the subdivision has:
- (a) an area of not less than 40 hectares, and
 - (b) where the lot has frontage to an arterial road—frontage to that road of not less than 400 metres.
- (2) Despite subclause (1), the Council may consent to the subdivision of land within Zone No 1 (a) so as to create an allotment having an area of less than 40 hectares if the Council is satisfied that the proposed lot is intended to be used for the purposes of a building, work, activity or place permitted within Zone No 1 (a) (other than agriculture, a dwelling-house, a rural workers dwelling or dual occupancy).

12 Subdivision of land for rural/residential purposes

- (1) This clause applies to land within Zone No 1 (a) not being prime crop or pasture land

or flood prone land.

- (2) Despite clause 11 (1), the Council may consent to the subdivision of land within Zone No 1 (a) but only if:
 - (a) the land to be subdivided has an area of not less than 30 hectares,
 - (b) the total number of allotments to be created is not less than 7,
 - (c) the average size if the allotments to be created is not less than:
 - (i) in respect of land to which a reticulated water supply will be available—6,000 square metres with a lot density of 1 lot per hectare, or
 - (ii) in respect of land to which a reticulated water supply will not be available—4 hectares with a lot density of 1 lot per 5 hectares,
 - (d) the Council is satisfied that the development will be carried out in accordance with the development standards and other requirements specified in Schedule 3, and
 - (e) the Council has considered an environmental impact report prepared by the applicant and containing the matters specified in Schedule 4.
- (3) The Council shall take into consideration the following matters in deciding whether to grant consent as referred to in subclause (2):
 - (a) the area and quality of the land and its potential agricultural productivity,
 - (b) the likely effects, both economic and otherwise, that the proposed subdivision will have on agricultural industries in the area and the resources employed by or in connection with those industries,
 - (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 effects of the existence of, or potential to erect, dwelling-houses on proposed allotments,
 - (f) the cumulative effect of similar proposals if consent is granted as allowed by this clause,
 - (g) the likelihood of proposed allotments remaining available for efficient agricultural use.
- (4) In preparing an environmental impact report referred to in subclause (2), the applicant shall consult with the Council and shall, in completing the preparation of the report,

have regard to any requirements notified in writing by the Council in respect of the form and content of the report.

- (5) The Council shall not consent to the subdivision of land as allowed by this clause unless the land is within 2 kilometres of the boundary of land within Zone No 2.
- (6) The Council shall not consent to the subdivision of land as allowed by this clause if the total number of allotments created pursuant to subdivisions allowed by this clause in a 5 year period exceeds the number specified by the Council.
- (7) For the purposes of subclause (6), **5 year period** means:
 - (a) the period of 5 years commencing on the appointed day,
 - (b) each succeeding period of 5 years which the Council specifies as being a 5 year period for the purposes of subclause (6), or
 - (c) (Repealed)

13 Subdivision of land within Zone No 1 (d)

- (1) The Council shall not consent to the subdivision of land within Zone No 1 (d) and by which more than one allotment will be excised, unless each allotment to be created has access to an arterial road by an access common to all the allotments.
- (2) The Council shall not consent to the subdivision of land within Zone No 1 (d) having frontage to an arterial road unless the frontage of each allotment to be created along the arterial road is not less than 200 metres.
- (3) The Council shall not consent to the subdivision of land within zone No 1 (d) unless each allotment to be created has a minimum area of 6,000 square metres and the lot density is at least one allotment per hectare.

14 Subdivision of land within Zone No 1 (e)

- (1) This clause applies to land within Zone No 1 (e).
- (2) The Council may consent to the subdivision of land to which this clause applies only if each allotment to be created is not less than 20 hectares in area and the Council is satisfied that the subdivision will complement future urban development.

15 (Repealed)

16 Subdivision and development of land within Zone No 7 (f1)

- (1) This clause applies to land within Zone No 7 (f1).
- (2) Development (other than for the purposes of agriculture) must not be carried out on or with respect to land to which this clause applies without the consent of the Council.

- (2A) For the purposes of subclause (2), the Council (in deciding whether consent should be granted) must take into consideration:
- (a) the extent to which the development would adversely affect, or be adversely affected by, the sea or any bay, inlet, lagoon or lake, and
 - (b) the extent to which the development would adversely affect any beach or dune or the bed, bank, shoreline, foreshore, margin or flood plain of the sea or of an arm of the sea or of any bay, inlet, lagoon, lake, body of water, river, stream or watercourse, and
 - (c) the extent to which the development would adversely affect the landscape or scenic quality of the locality, and
 - (d) the potential impacts of climate change including sea level rise.
- (3) The Council may consent to an application to subdivide the land to which this clause applies only if each separate allotment of land to be created by the subdivision has:
- (a) an area of not less than 40 hectares, and
 - (b) a ratio of depth to frontage satisfactory to the Council, having regard to the purposes for which the lot is or is intended to be used.
- (4) The Council may grant consent in respect of an application to subdivide land to which this clause applies so as to create one allotment, but not more than one, of less than 40 hectares if the Council is satisfied that:
- (a) the allotment to be excised is intended to be used for a purpose (other than agriculture, forestry or a dwelling-house or dual occupancy) for which it may be used without or only with the consent of the Council, and
 - (b) where the allotment has a frontage to an arterial road, the frontage is not less than 200 metres.

17 Erection of dwelling-houses and duplexes in rural zones

- (1A) This clause does not apply to land to which clause 17A applies.
- (1) A dwelling-house or duplex shall not be erected on an allotment of land within Zone No 1 (a), 1 (d) or 1 (e) unless:
- (a) the allotment has an area of at least 40 hectares,
 - (b) the allotment is an existing holding and:
 - (i) has an area of less than 40 hectares, and
 - (ii) does not have a dwelling-house or duplex situated on it,

- (c) the allotment has been created by subdivision in accordance with clause 12, 13 or 14 and the Council is satisfied that adequate arrangements have been made for the provision of vehicular access to the site of the proposed dwelling-house or duplex, or
 - (d) the allotment is an allotment that was lawfully created before the appointed day and on which a dwelling-house could lawfully have been erected immediately prior to the appointed day, and the Council is satisfied that adequate arrangements have been made for the provision of vehicular access to the site of the proposed dwelling-house or duplex.
- (2) A dwelling-house or duplex may, with the consent of the Council, be erected on an allotment of land within Zone No 1 (a), 1 (d) or 1 (e) on which another dwelling-house or duplex is situated if the firstmentioned dwelling-house or duplex is intended to wholly replace the secondmentioned dwelling-house or duplex. Where the Council grants consent under this subclause, the secondmentioned dwelling-house or duplex must be demolished within 6 months of occupation of the firstmentioned dwelling-house or duplex.

17A Dual occupancies, dwelling-houses and duplexes on certain land formerly in the Horticultural Holdings zone

- (1) This clause applies to land within Zone No 1 (a) that was, immediately before the commencement of the amending plan, within Zone No 1 (h), and being land shown edged heavy black on the map marked "*Ulmarra Local Environmental Plan 1992 (Amendment No 5)*" deposited in the office of Clarence Valley Council.
- (2) Despite any other provision of this plan, development for the purposes of a dual occupancy on an allotment of land to which this clause applies that has an area of less than 40 hectares must not be carried out unless the allotment is a horticultural allotment.
- (3) A dwelling-house or duplex must not be erected on an allotment of land to which this clause applies that has an area of less than 40 hectares unless the allotment is a horticultural allotment.
- (4) Consent must not be granted to development for the purposes of a dual occupancy or the erection of a dwelling-house or duplex on an allotment of land to which this clause applies unless:
 - (a) if the allotment is a split lot or is in two separate parts—the Council is satisfied that the proposed dual occupancy, dwelling-house or duplex is to be located on that part of the allotment set aside for a dual occupancy, dwelling-house or duplex, and
 - (b) the Council is satisfied that an adequate supply of potable water will be available to the proposed dual occupancy, dwelling-house or duplex, and

- (c) the Council is satisfied that the area of that parcel of land on which the proposed dual occupancy, dwelling-house or duplex is to be located is sufficiently large to permit the safe on-site disposal of effluent, and
- (d) the applicant for development consent can demonstrate that the development will not be adversely affected by the following:
 - (i) bushfire hazards,
 - (ii) contamination of soils from any adjoining or nearby agricultural or horticultural pursuits,
 - (iii) flooding or other permanent or intermittent water inundation hazard, and
- (e) the applicant for development consent can demonstrate that the dual occupancy or erection of a dwelling-house or duplex and subsequent occupation and management of the land will result in a better environmental outcome than if a horticultural or agricultural pursuit had been established on the land, and
- (f) the Council has considered a property management plan for the land.

(5) In this clause:

amending plan means [Ulmarra Local Environmental Plan 1992 \(Amendment No 5\)](#).

horticultural allotment means an allotment that:

- (a) was lawfully created by a subdivision of the land to which this clause applies before the commencement of the amending plan, and
- (b) in the opinion of the Council, was created primarily for the purposes of horticulture.

property management plan means:

- (a) a property vegetation plan within the meaning of the [Native Vegetation Act 2003](#) for land, prepared by or on behalf of the owner of the land, or
- (b) a plan for land, prepared by or on behalf of the owner of the land, that specifies ongoing land management goals and a program of activities and works proposed to be undertaken on the land to enhance or restore the natural ecosystem, areas of native vegetation and any wildlife corridors or links, and that may contain proposals for farm and general land management practices. These activities and works may include, but are not limited to the following:
 - (i) fencing riparian corridors to regulate stock access points,
 - (ii) planting native vegetation species,
 - (iii) fencing of remnant vegetation to exclude stock and encourage re-growth,

- (iv) environmental weed management,
- (v) bush fire hazard reduction works for fuel or ecosystem management purposes.

18 Rural workers' dwellings

- (1) This clause applies to land used for commercial farming within Zone No 1 (a).
- (2) In this clause, ***the total area of an existing commercial farming activity*** means the area of all adjoining and adjacent allotments on which a commercial farming activity is carried out and which are held in the same ownership at the time a development application is lodged for a rural workers' dwelling.
- (3) The Council shall not consent to the erection of a rural workers' dwelling on land to which this clause applies unless:
 - (a) the erection of the dwelling will not impair the suitability of the land for commercial farming,
 - (b) there is an existing commercial farming activity being carried out on the land and the needs of the activity genuinely require that rural workers reside on the land,
 - (c) any other rural worker's dwelling or all other rural workers' dwellings on the land are being used by persons substantially engaged in agricultural employment on that land,
 - (d) the rural worker to occupy the dwelling is to be directly and permanently employed for commercial farming purposes on that land by the owner of the land, and
 - (e) every dwelling-house (including rural workers' dwellings) within the total area of an existing commercial farming activity is situated on the same allotment.

19 (Repealed)

20 Dwelling-houses in Zone No 7 (f1)

A person shall not erect a dwelling-house on an allotment of land within Zone No 7 (f1) unless the allotment:

- (a) has an area of not less than 40 hectares,
- (b) is an existing holding, or
- (c) is an allotment created pursuant to clause 16.

21 Tree felling in Zone No 7 (f1)

A person shall not carry out development involving the cutting down, topping or lopping of trees having a height of 3 metres or more on land within Zone No 7 (f1) without the

consent of the Council.

22 Fencing within Zone No 7 (f1)

Nothing in this plan prevents a person from erecting a fence within Zone No 7 (f1) without the consent of Council.

23 Development along 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) vehicular access to that land is provided by a road other than the arterial road, or
- (b) the land is within Zone No 2 (Village), or
- (c) an existing use is located on the land and no additional access points are to be created, or
- (d) the land has frontage to the Pacific Highway, is within Zone No 1 (a), and has a frontage of not less than 400 metres, or
- (e) the land has frontage to an arterial road, other than the Pacific Highway, is within Zone No 1 (a) and has a frontage of not less than 200 metres,

and, in the opinion of the Council, the safety and efficiency of the arterial road will not be adversely affected by:

- (f) the design of the access to the proposed development, or
- (g) the emission of smoke or dust from the proposed development, or
- (h) 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 Zone No 1 (a), 1 (d) or 1 (e) for any purpose specified in Schedule 5 if the development of the land for the purpose will require direct vehicular access to:

- (a) an arterial road, or
- (b) a road connecting with an arterial road, if 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.

(3) Each lot created by a subdivision of land within Zone No 1 (e) shall have vehicular access to a road other than an arterial road.

24 Advertising structures

- (1) An advertising structure may be erected on land within Zone No 1 (a), 1 (d), 1 (e), 1 (f), 4 or 8 (b) only with the consent of the Council and if:
 - (a) the advertising structure is used to display advertisements specific to the lawful use of the site on which the advertising structure is to be erected, and
 - (b) the Council is satisfied that the advertising structure will not interfere with the character or amenity of the area or jeopardise or impair traffic safety.
- (2) The Council shall not consent to the erection of an advertising structure on land adjacent to or adjoining an arterial road unless it is satisfied that the erection of the advertising structure will not jeopardise or impair traffic safety.
- (3) The Council may erect advertising signs for the purpose of providing space for general advertisements.

25 Provision of services

The Council shall not consent to the carrying out of any development of any land unless it is satisfied that adequate arrangements (where considered desirable by the Council) have been made for the provision of electricity, water, sewerage and drainage facilities to or from the land.

26 Flood prone land

- (1) The Council shall not grant consent to the erection of a building or the carrying out of works on land to which this plan applies if, in the opinion of the Council:
 - (a) the land is within a floodway, and
 - (b) the carrying out of the development is likely:
 - (i) to adversely impede the flow of flood waters on that land or land in its immediate vicinity,
 - (ii) to imperil the safety of persons on that land or land in its immediate vicinity in the event of those lands being inundated with flood waters,
 - (iii) to aggravate the consequence of floodwaters lying on that land or land in its immediate vicinity with regard to erosion, siltation or the destruction of vegetation, or
 - (iv) to adversely affect the water table of that land or of land in its immediate vicinity.
- (2) The Council shall not grant consent to the erection of a dwelling on flood prone land unless the floor level of the living accommodation of the dwelling is located at least

0.5 metres above the adopted 1 in 100 year flood level.

27 Development and acquisition of land within Zone No 8 (b)

- (1) Where an application for consent to the carrying out of development on land within Zone No 8 (b) is made to the Council, the Council shall furnish a copy of the application to the Director of National Parks and Wildlife.
- (2) Where, within 40 days after a copy of an application has been furnished to the Director of National Parks and Wildlife in accordance with subclause (1), the Director of National Parks and Wildlife gives written notice to the Council of any matter relevant to the development to which the application relates, the Council shall, before determining the application, make an assessment on the matters referred to in the notice.
- (3) The owner of any land within Zone No 8 (b) may, by a written notice, require the Director of National Parks and Wildlife to acquire the land.
- (4) On receipt of such a notice, the Director of National Parks and Wildlife must acquire the land.

28 Acquisition of land reserved for roads and road widening

Note—

Nothing in this clause is to be construed as requiring a public authority to acquire land—see section 27 (3) of the Act.

- (1) The owner of any land shown in blue on any map titled "*State Highway No 10—Pacific Highway—Shire of Ulmarra Sketch Plan*" deposited in the office of the Council for the time being and indicating land of interest to the Roads and Traffic Authority adjoining the Pacific Highway and affected by roadwork proposals or road widening schemes proposed by the Road and Traffic Authority may, by a written notice, require the Roads and Traffic Authority to acquire the land.
- (2) On receipt of such a notice, the Roads and Traffic Authority must acquire the land if:
 - (a) the land is vacant, or
 - (b) the land is not vacant, but:
 - (i) the land is included in a 5 year works program of the Roads and Traffic Authority current at the time of receipt of the notice, or
 - (ii) the Roads and Traffic Authority has decided not to give concurrence to an application for consent to the carrying out of development on the land, or
 - (iii) the Roads and Traffic Authority 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 Roads and Traffic Authority is not required to acquire the land if it might reasonably be required to be dedicated for public road purposes.

- (3) A person may, with the consent of the Council, carry out development on land shown in blue on any map titled "*State Highway No 10—Pacific Highway—Shire of Ulmarra Sketch Plan*" deposited in the office of the Council for the time being:
 - (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.
- (4) (Repealed)
- (5) Land acquired under the clause may, with the consent of the Council, be developed for any purpose, until such time as it is required for the purpose for which it was acquired.
- (6) In this clause:

vacant land means land on which immediately before the day on which a notice under subclause (1) is given there were no buildings other than fences.

29 Land subject to bushfire hazards

The Council shall not grant consent to the carrying out of development on land within Zone No 2 which is subject to bushfire hazards (by reason of the vegetation on the land or on any adjacent land) unless, in the opinion of the Council:

- (a) adequate provision is made for access for fire fighting vehicles,
- (b) adequate safeguards are adopted in the form of fire breaks, reserves and fire radiation zones, and
- (c) adequate water supplies are available for fire fighting purposes.

29A Additional development allowed on certain land

- (1) Despite any other provision of this plan, a person may, with development consent or (if specified) without development consent, carry out on land described in Column 1 of Schedule 6 any development specified in relation to that land in Column 2 of Schedule 6, subject to such conditions (if any) as may be so specified.
- (2) Subclause (1) does not affect the application, to or in respect of development to which that subclause applies, of such of the provisions of this plan as are not inconsistent with that subclause or with a consent granted in respect of the development.

Part 4 Heritage provisions

30 Heritage aims and objectives

The aims and objectives of this Part are:

- (a) to conserve the environmental heritage of the land to which this plan applies, 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 heritage 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.

31 Heritage items

- (1) A person must not, in respect of a building, work, relic, tree or place that is a heritage item:
 - (a) demolish or alter the building or work, or
 - (b) damage or move the relic,
 - (c) excavate for the purpose of exposing the relic,
 - (d) damage or despoil the place or tree,
 - (e) erect a building on or subdivide land on which the building, work or relic is situated or that comprises the place,
 - (f) damage any tree on land on which the building, work or relic is situated or on the land which comprises the place, or
 - (g) make structural changes to the interior of the building or work, 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 garden features of its setting.

Note—

The website of the Heritage Branch of the Department of Planning has publications that provide guidance on assessing the impact of proposed development on the heritage significance of items (for example, *Statements of Heritage Impact*).

- (3) The Council may require that a conservation plan accompany a development application under this clause to enable the Council 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.

32 Development in the vicinity of heritage items

The Council may not grant consent to an application to carry out development on land in the 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.

33 Heritage advertisements

- (1) Except as provided by this clause, the provisions of sections 84, 85, 86, 97 (1) and 90 of the Act apply to and in respect of:

- (a) the demolition of a heritage item, and
- (b) the use of a building or land referred to in clause 34 for a purpose which, but for that clause, would be prohibited under this plan,

in the same way as those provisions apply to and in respect of designated development.

- (2), (3) (Repealed)

- (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, building or work in relation to the environmental heritage of the land to which this plan applies.

34 Conservation incentives

- (1) Nothing in this plan prevents the Council from granting consent to an application to 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 that consent.

- (2) When considering an application to erect a building on land on which there is situated a building which is a heritage item, the Council may:

- (a) for the purpose of determining the floorspace ratio, and
- (b) for the purpose of determining the number of parking spaces to be provided on the site,

exclude from its calculation of the floorspace of the buildings erected on the land the floorspace of the item, but only if the Council is satisfied that the conservation of the building depends on the Council making the exclusion.

35 Development of places of potential historical archaeological significance

Where the Council receives an application to carry out development on land which comprises a potential historical archaeological site, the Council may not grant consent unless:

- (a) it has received from the applicant and considered a conservation plan which includes an assessment of how the proposed development would affect the conservation of the site, and
- (b) in the case of development involving the disturbance or excavation of the land, any excavation permit required under Division 9 of Part 6 of the *Heritage Act 1977* has been obtained.

36 What is exempt and complying development?

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

- (a) the applicable exempt and complying development control plan, in the case of development on land within the local government area of Clarence Valley, or
 - (b) *Development Control Plan No 3: Exempt and Complying Development*, in the case of any other development,
- as in force when the certificate is issued.

Schedule 1 Arterial roads

(Clause 5 (1))

State Highway No 10—Pacific Highway
M.R. 151—Orara Way
M.R. 74—Armidale Road

Schedule 2 Heritage items

(Clause 5 (1))

Glenreagh School of Arts—Lot 4, Section 6, Village of Glenreagh
Glenreagh Catholic Church—MPS (R.P. 27442)
Glenreagh Anglican Church—Lot 5, DP 6506
Glenreagh Railway Station—State Rail Reserve—Glenreagh
Glenreagh General Store—Lot 27, DP 6504
Public Well—Pillar Valley—adjacent to Portion 7, Parish of Maryvale
Former Court House—River Street, Ulmarra—Book 2034, No 933

Schedule 3 Development standards etc in respect of rural residential development

(Clause 12)

- 1 Adequate facilities shall exist on the land for the disposal of sewage and domestic waste and for the supply of water for domestic and fire fighting purposes.
- 2 Adequate electricity, telephone and postal services shall be available to the land.
- 3 The carrying out of the development shall not create a demand for the unreasonable or uneconomic provision or extension of public amenities or public services, whether by the Council or by another public authority.
- 4 The carrying out of the development shall not generate traffic volumes which are excessive in relation to the engineering standards of roads leading to urban and service centres.
- 5 The carrying out of the development shall not create or increase ribbon development or adversely affect road safety.
- 6 The risk of bushfire damage to dwellings and surrounding land shall be minimised.
- 7 The carrying out of the development shall not detract from the existing rural or scenic character of the locality.

- 8 Dwellings shall not be erected on land which is, or is likely to be, adversely affected by flooding, soil erosion or landslip.
- 9 Drainage works carried out on the land shall not have a detrimental impact on adjoining land.
- 10 Site features of major historical, cultural, scenic or ecological significance shall be retained within the development.
- 11 Road and access ways within the development site shall be sited and designed to be efficient and practical having regard to anticipated traffic volumes while maintaining a rural character and minimising environmental impact.
- 12 Development shall be carried out so as to maintain and extend, where possible, the existing amount, diversity and form of native vegetation and natural habitat areas.
- 13 Development shall not have the effect of significantly reducing the long term agricultural production potential of the subject or adjoining land.
- 14 The carrying out of the development shall not prejudice future expansion of urban areas in the locality.
- 15 The carrying out of the development shall not have an adverse effect on sources of extractive material or create or tend to create conflict between the development and existing or potential extractive industry development.

Schedule 4 Rural residential subdivision—matters for environmental impact report

(Clause 12)

The report shall contain the following:

- (a) a full description of the development proposed by the development application,
- (b) a statement of the objectives of the proposed development, and how it relates to the objectives of the zone,
- (c) a full description of the existing environment likely to be affected by the proposed development, if carried out,
- (d) identification and analysis of the likely environmental interactions between the proposed development and the environment,
- (e) analysis of the likely environmental impact and consequences of carrying out the proposed development,
- (f) justification of the proposed development in terms of environmental, economic and social considerations,
- (g) measures to be taken in conjunction with the proposed development to protect the environment and an assessment of the likely effectiveness of those measures,

- (h) any feasible alternatives to the carrying out of the proposed development and reasons for choosing the latter, and
- (i) consequences of not carrying out the proposed development.

Schedule 5 Restricted development along arterial roads

(Clause 23 (2))

Bulk stores
Caravan parks
Car repair stations
Clubs
Commercial premises
Educational establishments
Hospitals
Hotels
Industries (other than home or rural industries)
Institutions
Junk yards
Liquid fuel depots
Mines
Motels
Places of public assembly
Places of public worship
Recreation facilities
Refreshment rooms
Retail plant nurseries
Roadside stalls
Sawmills
Service stations
Stock and sale yards
Transport terminals
Warehouses

Schedule 6 Additional development allowed on certain land

(Clause 29A)

Column 1

Land

Lot 1, DP 226501, Eastbank Road, Glenreagh

Column 2

Additional development allowed

Subdivision of the land into 4 lots and the erection of a dwelling-house on each vacant lot so created