



New South Wales

## **Wingecarribee Local Environmental Plan 1989 (Amendment No 92)**

under the

**Environmental Planning and Assessment Act 1979**

I, the Minister for Urban Affairs and Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*.  
(W98/00161/S69 Pt 1)

ANDREW REFSHAUGE, M.P.,

Minister for Urban Affairs and Planning

Sydney, 8 February 2001.

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## 2001 No 93

Clause 1 Wingecarribee Local Environmental Plan 1989 (Amendment No 92)

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# Wingecarribee Local Environmental Plan 1989 (Amendment No 92)

## 1 Name of plan

This plan is *Wingecarribee Local Environmental Plan 1989 (Amendment No 92)*.

## 2 Aims of plan

This plan aims:

- (a) to substitute the definition of *recreation gardens* and allow such gardens without the consent of Wingecarribee Shire Council (but subject to certain restrictions), within the Rural, Residential, Business, Industrial, Special Uses, Open Space, Proposed Recreation Reservation and Environmental Protection Zones under *Wingecarribee Local Environmental Plan 1989*, and
- (b) to allow, with the consent of the Council, exhibition gardens (as defined) within the Rural, Residential, Special Uses “C” (Water Catchment) and Environmental Protection Zones under that Plan, and
- (c) to provide for the control of any proposed development for the purpose of commercial and exhibition gardens.

## 3 Land to which plan applies

This plan applies to land within the local government area of Wingecarribee.

## 4 Amendment of Wingecarribee Local Environmental Plan 1989

The *Wingecarribee Local Environmental Plan 1989* is amended as set out in Schedule 1.

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## Schedule 1 Amendments

(Clause 4)

### [1] Clause 5 Definitions

Insert in alphabetical order in clause 5 (1):

*exhibition garden* means a private garden associated with a dwelling-house, that is open for inspection by the public:

- (a) in the case of an exhibition garden on land located in Zone No 1 (a), 1 (b), 1 (c), 5 (c), 7 (a) or 7 (b)—for more than 21 days but not more 120 days each year, or
- (b) in the case of an exhibition garden on land located in Zone No 2 (a), 2 (a1), 2 (a2), 2 (b) or 2 (c)—for more than 21 days but not more than 60 days each year,

whether or not information concerning the garden is provided at the garden.

### [2] Clause 5 (1), definition of “recreation garden”

Omit the definition. Insert instead:

*recreation garden* means a private garden associated with a dwelling-house, that is open for inspection by the public for a maximum of 21 days each year, whether or not information concerning the garden is provided at the garden.

### [3] Clause 9 Zone objectives and development control table

Insert “exhibition gardens,” in alphabetical order in Item 3 of the matter relating to Zones Nos 2 (a), 2 (a1), 2 (a2), 2 (b), 5 (c), 7 (a) and 7 (b) in the Table to clause 9.

### [4] Clause 9, Table

Insert “recreation gardens,” in alphabetical order in Item 2 of the matter relating to Zones Nos 2 (a2) and 5 (c).

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Schedule 1 Amendments

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### **[5] Clause 9, Table**

Insert “, recreation gardens” after “clause 6A” wherever occurring in Item 2 of the matter relating to Zones Nos 3 (a), 3 (b), 4 (a) and 4 (b).

### **[6] Clause 9, Table**

Omit “Nil” wherever occurring in Item 2 of the matter relating to Zones Nos 5 (a) and 5 (b).

Insert instead “Recreation gardens”.

### **[7] Clause 9, Table**

Insert “2 or” after “Item” wherever occurring in Item 4 of the matter relating to Zones Nos 5 (a) and 5 (b).

### **[8] Clause 16AA Commercial gardens within Zone No 1 (a)**

Insert after clause 16AA (2):

- (3) In determining an application for consent to the carrying out of development for the purpose of a commercial garden the Council must take into account whether adequate provision has been made for:
  - (a) all car and coach parking associated with the development, and
  - (b) its operation between the hours of 8.00 am and 6.00 pm only, and
  - (c) a limitation on the number of visitors to the commercial garden in consideration of the impact of the development on the amenity of the neighbourhood, and
  - (d) the retention of existing, significant vegetation on the site.
- (4) Any off-site signage in relation to a commercial garden may be erected only with development consent granted in accordance with the Council’s Tourism Signage Policy (available for inspection at the office of the Council).

**[9] Clauses 24A and 24B**

Insert in appropriate order:

**24A Exhibition gardens—restrictions**

- (1) In determining an application for consent to the carrying out of development for the purpose of an exhibition garden the Council must take into account whether adequate provision has been made for:
  - (a) all car and coach parking associated with the development, and
  - (b) its operation between the hours of 8.00 am and 6.00 pm only, and
  - (c) a limitation on the number of visitors to the exhibition garden in consideration of the impact of the development on the amenity of the neighbourhood, and
  - (d) the capture and the treatment or reuse (or both) of all effluent water and stormwater runoff without any risk of contamination to any watercourse or ground water resource and in such a way as to ensure that there is no overall adverse impact on the quality of surface water or ground water, and
  - (e) in the case of an exhibition garden on land zoned, or partly zoned, 1 (a), 1 (b), 1 (c), 5 (c), 7 (a) or 7 (b), the retention of existing, significant vegetation on that land.
- (2) Consent must not be granted for the carrying out of development for the purpose of an exhibition garden unless the Council places a condition on the consent that prohibits making available:
  - (a) any foodstuffs (whether for sale or free of charge), and
  - (b) any beverages for sale, and
  - (c) in the case of an exhibition garden on land zoned 5 (c), any beverages free of charge,in connection with a public inspection of the exhibition garden, from the site of the exhibition garden or its associated dwelling-house.

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Schedule 1

Amendments

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- (3) Any off-site signage in relation to an exhibition garden may be erected only with development consent granted in accordance with the Council's Tourism Signage Policy (available for inspection at the office of the Council).

### **24B Recreation gardens—restrictions**

- (1) This clause applies to all land where development for the purpose of a recreation garden may be carried out.
- (2) Despite any other provision of this plan, a person may only operate a recreation garden if:
- (a) adequate and safe arrangements are in place to accommodate:
    - (i) vehicular access to and from the recreation garden or associated dwelling-house, and
    - (ii) vehicular parking associated with the recreation garden, and
  - (b) activity associated with the recreation garden does not significantly interfere with the amenity of the neighbourhood by reason of the emission of noise, smoke, fumes or otherwise, and
  - (c) no foodstuffs are made available for sale or free of charge, and no beverages are made available for sale or, in the case of a recreation garden on land zoned 5 (c), free of charge, at the site of the recreation garden or its associated dwelling-house in connection with a public inspection of the recreation garden, and
  - (d) in the case of a recreation garden in connection with the operation of which beverages are to be made available (in accordance with paragraph (c)), public amenities are provided that:
    - (i) adequately satisfy the needs of visitors to the recreation garden, and
    - (ii) pose no risk of contamination to any watercourse or groundwater resource, and
  - (e) the recreation garden is open for public inspection between the hours of 8.00 am and 6.00 pm only.

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BY AUTHORITY