



## **Narromine Local Environmental Plan 1997 (Amendment No 2)— Intensive Agriculture**

under the

Environmental Planning and Assessment Act 1979

I, the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration), make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (S00/00737/PC)

DIANE BEAMER, M.P.,

Minister Assisting the Minister for Infrastructure  
and Planning (Planning Administration)

**2004 No 319**

Clause 1

Narromine Local Environmental Plan 1997 (Amendment No 2)—Intensive Agriculture

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under the

Environmental Planning and Assessment Act 1979

**1 Name of plan**

This plan is *Narromine Local Environmental Plan 1997 (Amendment No 2)—Intensive Agriculture*.

**2 Aims of plan**

This plan aims to provide for intensive agriculture on land that is within Zone No 1 (a) (General Rural) under *Narromine Local Environmental Plan 1997*.

**3 Land to which plan applies**

This plan applies to all land to which *Narromine Local Environmental Plan 1997* applies.

**4 Amendment of Narromine Local Environmental Plan 1997**

*Narromine Local Environmental Plan 1997* is amended as set out in Schedule 1.

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## Schedule 1 Amendments

(Clause 4)

### [1] Clause 5 Interpretation

Omit the definition of *agriculture* from clause 5 (1). Insert instead:

*agriculture* means:

- (a) the cultivation of crops, including cereals, fibres, fruits, vegetables or flower crops, or
- (b) the keeping or breeding of livestock, bees or poultry or other birds for commercial purposes,

but does not include intensive agriculture, intensive livestock keeping establishments or anything elsewhere specifically defined in this clause.

### [2] Clause 5 (1)

Insert “, horse stud” after “riding school” in the definition of *animal boarding or training establishment*.

### [3] Clause 5 (1)

Insert in alphabetical order:

*aquaculture* means the cultivation of the resources of inland waters for the propagation or rearing of fish or plants or other organisms.

*artificial waterbody* means an artificial waterbody to which clause 4 of Schedule 3 to the *Environmental Planning and Assessment Regulation 2000* applies.

*cotton farming* means the use of a site for the commercial production of cotton.

*dairy* means a building or place used for the milking (other than for personal consumption) of livestock.

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

*holding* means one or more adjoining allotments under the same ownership.

***intensive agriculture*** means the commercial production of fibre, flowers, fruits, mushrooms, pastures or fodder, timber or vegetables (and includes viticulture or the like) where production is usually beyond the natural capability of the land on which it is carried out, but does not include aquaculture, cotton farming or turf farming.

***large scale earthworks*** means ground disturbance involving more than 2,500 square metres of surface area, and vegetation removal, cut and fill operations or land forming, necessary to permit building work or other development to proceed.

***property development plan*** or ***PDP*** means a plan prepared for a holding of land that:

- (a) outlines how the land is to be developed and used for an economically, environmentally and socially sustainable agricultural undertaking, and
- (b) has been prepared in accordance with *Narromine Development Control Plan No 5—Intensive Agriculture* as adopted by the Council on 18 June 2002.

***rural worker's dwelling*** means a dwelling:

- (a) located on a parcel of land on which a dwelling-house is or is intended to be located, and
- (b) used as the principal place of residence by persons employed in a rural occupation conducted on that land.

***turf farming*** means the commercial cultivation, and removal from land, of turf.

***vacant land*** means land devoid of dwellings.

***wetland*** means land that is inundated with shallow water that may be slow moving or stationary, fresh, brackish or saline, for a long enough period (either temporarily or permanently) so that the plants and animals living on or within the land are adapted to, and often dependent on, living in a wet condition for at least part of their life cycle, but does not include wetlands which have been constructed for an artificial purpose such as sewage treatment works.

#### [4] Clause 6 Adoption of model provisions

Insert “*agriculture*,” after “*advertisement*,”.

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**[5] Clause 6**

Insert “*forestry*,” after “*arterial road*,”.

**[6] Clause 9 Zone objectives and development control table**

Omit item 1 of the matter relating to Zone No 1 (a) (General Rural) in the table to the clause.

Insert instead:

**1 Objectives of zone**

The objectives of this zone are as follows:

- (a) to provide for an area of open rural character comprising agriculture, other primary industries and development consistent with a rural location,
- (b) to prevent the development of prime agricultural land for purposes other than agriculture,
- (c) to facilitate farm adjustments and encourage amalgamations of land to increase holding size,
- (d) to provide for development of land for non-agricultural purposes in accordance with the need for that development if the development is not detrimental to productive and sustainable agriculture,
- (e) to encourage the development of intensive agriculture enterprises which meet sustainable natural resource management principles,
- (f) to protect agricultural enterprises from operational restraints caused by land use conflicts, especially those arising from pressure to maintain a level of amenity more appropriate for residential and hobby farming,
- (g) to provide for dwelling-houses on holdings where such a use is justified considering the economic, environmental and socially sustainable nature of agriculture on the holdings,
- (h) to permit supporting and compatible value-adding industries within the zone where not detrimental to existing or potential agricultural activities.

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### [7] Clause 9, Table

Omit item 1 of the matter relating to Zone No 2 (v) (Village or Urban).

Insert instead:

#### 1 Objectives of zone

The objectives of this zone are as follows:

- (a) to promote development in existing villages and urban areas in a manner which is compatible with their existing urban function,
- (b) to protect and enhance the character and amenity of the individual towns and villages,
- (c) to provide appropriate areas for residential expansion,
- (d) to allow a variety of appropriately designed housing types within existing and new residential areas,
- (e) to allow development within the zone for purposes other than housing, being development that is appropriate to a village or urban area and that does not detrimentally affect the character or amenity of the locality.

### [8] Clause 9, Table

Omit item 4 of the matter relating to Zone No 2 (v) (Village or Urban).

Insert instead:

#### 4 Prohibited

Development for the purpose of:

aquaculture; artificial waterbodies; cotton farming; dairies; extractive industries; intensive agriculture; intensive livestock keeping establishments; large scale earthworks; mines; offensive and hazardous industries; turf farming.

### [9] Clauses 12A and 12B

Insert after clause 12:

#### 12A Subdivision for purpose of intensive agriculture in Zone No 1 (a)

- (1) The Council may consent to the creation of a vacant allotment of any area within Zone No 1 (a) if the Council is satisfied by a property development plan that the allotment will be used, and is suitable, for intensive agriculture.

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- (2) The Council may consent to the creation of an allotment within Zone No 1 (a) that the Council considers will be used for the purpose of intensive agriculture, that has an area of less than 400 hectares and on which a dwelling-house is or will be located if the Council is satisfied by a property development plan that:
- (a) the primary land use of the allotment will be for economically, environmentally and socially sustainable intensive agriculture, and
  - (b) the allotment will be capable of being used for, and will be suitable for, the intensive agriculture purpose proposed, and
  - (c) the creation of the allotment will not diminish the potential of the land or any other land to be used for agriculture or intensive agriculture.

**12B Referral of certain applications involving intensive agriculture to relevant public authorities**

- (1) Every development application for the following must be referred by the Council to the Directors-General of the Department of Agriculture and the Department of Infrastructure, Planning and Natural Resources for comment:
  - (a) consent to the creation of a vacant allotment of any area within Zone No 1 (a) for the purpose of intensive agriculture,
  - (b) consent to the erection of a dwelling-house on vacant land within Zone No 1 (a) where the dwelling-house is ancillary to the land being used for intensive agriculture.
- (2) The Council must take into consideration any comments made by the Director-General of the Department of Agriculture or the Director-General of the Department of Infrastructure, Planning and Natural Resources that are received by the Council within 30 days from the date of referral.

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### [10] Clause 13, heading

Omit the heading to the clause. Insert instead:

#### **Subdivision of an existing holding for purpose of a dwelling-house in Zone No 1 (a)**

### [11] Clause 13 (3)

Insert after clause 13 (2):

- (3) This clause ceases to have effect on the first anniversary of the commencement of *Narromine Local Environmental Plan 1997 (Amendment No 2)—Intensive Agriculture* and on and from that date the Council may not grant consent under this clause.

### [12] Clause 14 Subdivision for other purposes in Zone No 1 (a)

Insert “intensive agriculture,” after “other than” in clause 14 (1).

### [13] Clauses 16 and 16A

Omit clause 16. Insert instead:

#### **16 Dwelling-houses on vacant land in Zone No 1 (a)**

- (1) Subject to subclauses (2), (3) and (4), the Council may consent to the erection of a dwelling-house on vacant land within Zone No 1 (a) but only if the Council is satisfied that the land:
  - (a) is part of, or will be consolidated into, a single parcel of land with an area of 400 hectares or more, or
  - (b) comprises an allotment that was created for the purpose of a dwelling-house by a subdivision to which the Council granted consent before the commencement of *Narromine Local Environmental Plan 1997 (Amendment No 2)—Intensive Agriculture*.
- (2) Despite subclause (1), the Council may consent to the erection of a dwelling-house on vacant land within Zone No 1 (a) if the Council:
  - (a) is satisfied by a property development plan that the dwelling-house will be ancillary to the use of that land for the purpose of intensive agriculture, and



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- (b) imposes a condition on that consent that prohibits the use of the dwelling-house before the commencement of the use of the land for the purpose of intensive agriculture.
  - (3) Despite subclause (1), the Council may consent to the erection of a dwelling-house on vacant land within Zone No 1 (a) if:
    - (a) the dwelling-house will be ancillary to an established use of the land other than agriculture or intensive agriculture, and
    - (b) the Council is satisfied that:
      - (i) the land could not reasonably be used for that other purpose without the erection of the dwelling-house, and
      - (ii) the dwelling-house is to be located so as to prevent any adverse effect on the productive or potential use of the land and adjoining lands.
  - (4) The Council must not consent to the erection of a dwelling house on vacant land within Zone No 1 (a) unless it is satisfied that the land contains a suitable area for a building envelope that:
    - (a) does not comprise prime crop and pasture land (except where no reasonable alternative exists), and
    - (b) will not diminish the potential of the land or any other land to be used for agriculture, and
    - (c) is capable of being used for, and has an area suitable for, the on-site disposal of effluent, and
    - (d) has access to adequate water supply for domestic and firefighting purposes, and
    - (e) has access to a public road, and
    - (f) has a slope of less than 18 degrees and is not subject to slope instability, and
    - (g) is located above the flood planning level (within the meaning of the NSW Government's *Floodplain Management Manual 2001*) or, if not, the completion of a flood impact study by the Council reveals that the intended location of the dwelling-house is appropriate considering:
      - (i) peak floodwater velocities and directions, and
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- (ii) floodwater dispersions following construction, and
  - (iii) the proposed floor levels for the dwelling-house, considering the surrounding landform.

### **16A Dwelling-houses on vacant land in Zone No 1 (a) where the land is an existing holding**

- (1) Despite clause 16, the Council may consent to the erection of a dwelling-house on vacant land within Zone No 1 (a) if the land is an existing holding.
- (2) This clause ceases to have effect on the first anniversary of the commencement of *Narromine Local Environmental Plan 1997 (Amendment No 2)—Intensive Agriculture* and on and from that date the Council may not grant consent under this clause.

### **[14] Clause 17**

Omit the clause. Insert instead:

### **17 Rural worker's dwellings and additional dwelling-houses**

- (1) Subclause (2) applies to land within Zone No 1 (a):
  - (a) on which one or more dwelling-houses exist, or
  - (b) in relation to which the Council has granted consent to the erection of a dwelling-house under clause 16 or 16A.
- (2) The Council must not consent to the erection of a rural worker's dwelling on land to which this subclause applies unless:
  - (a) if the land has an area of 400 hectares or more, the rural worker's dwelling is erected on the same allotment as that on which the existing dwelling-house or dwelling-houses are located or the same allotment to which the consent referred to in subclause (1) (b) applies, or
  - (b) if the land is less than 400 hectares, the Council is satisfied that the allotment is used for the purpose of intensive agriculture and the need and location of the rural worker's dwelling is justified in a property development plan for the land.

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- (3) The Council may consent to the erection of one and only one additional dwelling-house (that is, in addition to a single existing dwelling-house) on land within Zone No 1 (a) (whether or not a rural worker's dwelling is on the land), but only if the Council is satisfied that:
- (a) the new dwelling-house is located not more than 100 metres from the existing dwelling-house, and
  - (b) the dwelling-houses share a common access to a public road, and
  - (c) the additional dwelling-house is located on the same allotment or parcel of land as the existing dwelling-house, and
  - (d) the site and surrounds proposed for the construction of the dwelling-house are compatible with residential standards as assessed and determined in accordance with the planning guidelines relating to contaminated land (as referred to in section 145C of the *Environmental Planning and Assessment Act 1979*).
- (4) The Council must not grant consent under this clause unless it is satisfied that the allotment on which the rural worker's dwelling or additional dwelling-house concerned is to be erected contains a suitable area for a building envelope that:
- (a) does not comprise prime crop and pasture land (except where no reasonable alternative exists), and
  - (b) will enable the location of the rural worker's dwelling or additional dwelling-house in a position that is unlikely to adversely affect the existing and potential capability of the land and adjacent land to produce food, fibre or energy, and
  - (c) is capable of being used for, and has an area suitable for, the on-site disposal of effluent, and
  - (d) has access to adequate water supply for domestic and firefighting purposes, and
  - (e) has access to a public road, and
  - (f) has a slope of less than 18 degrees and is not subject to slope instability, and
  - (g) is located above the flood planning level (within the meaning of the NSW Government's *Floodplain Management Manual 2001*) or, if not, the completion of
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a flood impact study by the Council reveals that the intended location of the rural worker's dwelling or dwelling-house is appropriate considering:

- (i) peak floodwater velocities and directions, and
- (ii) floodwater dispersions following construction, and
- (iii) the proposed floor levels for the rural worker's dwelling or additional dwelling-house, considering the surrounding landform.

**[15] Clause 32 Environmentally sensitive land**

Insert at the end of clause 32 (1):

- (g) intensive agriculture.

BY AUTHORITY