

Rylstone Local Environmental Plan 1996

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New South Wales

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New South Wales

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Rylstone Local Environmental Plan 1996



New South Wales

Part 1 Preliminary

1 Name of plan

This plan may be cited as *Rylstone Local Environmental Plan 1996*.

2 Aims, objectives, etc

The general aims of this plan are:

- (a) to facilitate the economic and social development of the area of Rylstone by encouraging commercial, industrial, agricultural, tourist and residential development, and
- (b) to encourage the proper management, development and conservation of natural and cultural resources within the Shire of Rylstone by protecting, enhancing and conserving:
 - (i) prime crop and pasture land, and
 - (ii) timber, minerals, soil, water and other natural resources, and
 - (iii) areas of significance for nature conservation, and
 - (iv) areas of high scenic or recreational value, and
 - (v) the environmental heritage of the land to which this plan applies, and
- (c) to replace the existing planning controls with a single local environmental plan to help facilitate the growth and development of the area of Rylstone in a manner which is consistent with the aims specified in paragraphs (a) and (b) and which:
 - (i) minimises the cost to the community of fragmented and isolated development of rural land, and
 - (ii) facilitates the efficient and effective provision of amenities and services, and
 - (iii) facilitates a range of residential and employment opportunities in accordance with demand, and

- (iv) facilitates farm adjustments, and
 - (v) ensures that the efficiency of arterial roads is not adversely affected by development on adjacent land,
- (d) to maintain and enhance the unique character and amenity of the area of Rylstone by:
- (i) identifying and protecting the areas natural and cultural heritage, and the distinctive character and amenity of the local community, and
 - (ii) recognising and maintaining the positive qualities of the traditional lifestyle enjoyed by the residents of the area, and
- (e) to ensure the assessment of the physical capability of the land affected by this plan is considered, so that land degradation and impact on water quality are minimised.

3 Land to which plan applies

This plan applies to all land within the area of Rylstone as shown on the map, with the boundaries as indicated on the map.

4 Relationship to other environmental planning instruments

This plan repeals *Interim Development Order No 2—Shire of Rylstone* and all other local environmental plans and other deemed environmental planning instruments in force immediately before the appointed day, which applied to the land to which this plan applies.

5 Interpretation

- (1) In this plan, except in so far as the context or subject-matter otherwise indicates or requires:

advertisement means the display of symbols, messages or other devices for promotional purposes or for conveying information, instructions, directions or the like, whether or not the display includes the erection of a structure or the carrying out of a work.

agriculture means the use of land for any purpose of husbandry, including the keeping or breeding of livestock, poultry and bees, and the growing of fruit, vegetables, nuts and the like, and includes horticulture, but does not include intensive livestock keeping establishments. For the purposes of this plan, **cultivation** has the same meaning as **agriculture**.

alter, in relation to a heritage item or to a building or work within a heritage conservation area, means:

- (a) the making of structural changes to the outside of the heritage item, building or work, or

(b) the making of non-structural changes to the detail, fabric, finish or appearance of the outside of the heritage item, building or work.

But does not include the maintenance of the existing detail, fabric, finish or appearance of the outside of the heritage item, building or work.

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

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

arterial road means any existing road indicated on the map by heavy broken black lines.

caravan park means land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, placed or erected.

commercial premises means a building or place used solely as an office or for some other business or commercial purpose, but does not include a building or place elsewhere specifically defined in this clause or a building or place used for a purpose elsewhere specifically defined.

Council means for the purposes of this plan Rylstone Council.

craft establishment means a building or part of a building, not exceeding 40 square metres in area, in which artworks and craftworks are manufactured, displayed or sold.

demolition in relation to a heritage item or to a building, work, relic or place within a heritage conservation area, means the damaging, defacing, destruction, pulling down or removal of the heritage item, building, work, relic or place in whole or in part.

dual occupancy means development that results in 2 dwellings (whether attached or detached) on a single allotment of land.

dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

dwelling-house, means a building containing one but not more than one dwelling.

environmentally sensitive land means any of the following land:

- (a) land being class vii or class viii land as shown on the Soil Conservation Service Capability map dated June 1982 deposited in the office of the Council,
- (b) protected land,
- (c) land identified for the time being by resolution of the Council as being environmentally sensitive land,

but does not include land determined for the time being by resolution of the Council not to be environmentally sensitive land.

existing holding means:

- (a) in respect of the land that was transferred from the Shire of Cudgegong to the Shire of Rylstone on 1 January 1974, the area of a lot, portion or parcel of land as it was on 24 November 1967, or
- (b) in respect of the land that was in the balance of the Shire of Rylstone, the area of a lot, portion or parcel of land as it was on 31 July 1970,

and includes any area of adjoining land held in the same ownership on those dates.

flood liable land means land shown diagonally hatched with black lines on the map.

heritage conservation area means land shown edged with a broken heavy black line on the map and marked "heritage conservation area" and includes buildings, works, relics, trees and places situated on or within that land.

heritage item means a building, work, relic, tree or place (which may or may not be situated on or within land that is a heritage conservation area) described in Schedule 1.

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

intensive livestock keeping establishment means a building or place in which or on which cattle, sheep, goats, poultry or other livestock are held for the purposes of nurturing exclusively by feeding methods other than natural grazing and without limiting the generality of the foregoing, includes:

- (a) feed lots, and
- (b) piggeries, and
- (c) poultry farms,

but does not include an animal boarding or training establishment or land used for the keeping of livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of the land, or for the keeping of cattle or sheep fed predominantly by a feeding method other than natural grazing during periods of drought, flood or other natural hazards.

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

materials recycling yard means a building or place used for collecting, dismantling,

storing, abandoning or recycling of second-hand or scrap materials for the purpose of resale.

mine means:

- (a) any place, open cut, shaft, tunnel, pit, drive level or other excavation, drift, gutter, lead, vein, lode or reef on, in or by which any operation is carried on for or in connection with the purpose of obtaining any metal or mineral by any method, and
- (b) any place in which any such metal or mineral is stacked, stored, crushed or otherwise treated.

prime crop and pasture land means land within an area identified, on a map dated May 1982, prepared by or on behalf of the Department Agriculture, and which is deposited in the office of the Council, as Class 1, Class 2, or Class 3, but does not include land which the Council has from time to time determined by resolution as not being prime crop and pasture land for the purposes of this plan (after consideration of the guidelines within the Rural Land Evaluation Manual prepared by the Department of Urban Affairs and Planning).

private waste disposal facility means an area used or operated by a private company, group or individual for the disposal or depositing of all waste materials including, but not limited to, general household refuse, builder's and demolisher's rubble, commercial and industrial waste and vegetation wastes, but does not include a waste disposal facility operated and managed by or on behalf of the Council, or a materials recycling yard.

protected lands means lands identified as protected lands under the [Soil Conservation Act 1938](#) on maps copies of which are deposited in the office of a district Soil Conservationist and the office of the Council.

recreation area means:

- (a) a children's playground, or
- (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 the persons within the community, being facilities provided by:
 - (i) a public authority, or
 - (ii) a body of persons associated for the purpose of promoting the physical, cultural or intellectual welfare of persons within the community,

but does not include a race-course or a showground.

recreation establishment means a health farm, religious retreat house, rest home, youth camp or the like but does not include a building or place elsewhere specifically defined or a building or place used for a purpose elsewhere specifically defined for the purposes of this plan.

relic means any deposit, object or material evidence relating to:

- (a) the use or settlement of the land to which this plan applies, not being Aboriginal habitation, which is 50 or more years old, or
- (b) Aboriginal habitation of the land to which this plan applies commencing before and continuing after its occupation by persons of European extraction, including human remains.

renovation, in relation to a building or work, means:

- (a) the making of structural changes to the inside or outside of the building or work, or
- (b) the making of non-structural changes to the fabric or appearance of the outside of the building or work, which may consist of or include changes that involve the repair or the painting, plastering or other decoration of the outside of the building or work.

residential flat building means a building containing 3 or more dwellings.

rural residential site means land within Zone No 1 (c) with a minimum site area of 2Ha.

rural retreat means land within Zone No 1 (c1) with a minimum site area of 10Ha.

shop means a building or place used for the purpose of selling, exposing or offering for sale by retail, goods, merchandise or materials, but does not include a building or place elsewhere specifically defined in this clause or a building or place used for a purpose elsewhere specifically defined in this clause.

the map means the series of sheets of the map marked "*Rylstone Local Environmental Plan 1996*", as amended by the map (or specified sheets of maps) marked as follows:

Rylstone Local Environmental Plan 1996 (Amendment No 2)

tree means a living perennial plant with one or more self supporting trunks, any one or more of which has a girth of more than 0.3m (at a height of 1 metre above the ground) or has a height of more than 3.6 metres, or a branch spread of more than 3.0 metres.

truck depot means a building or place used for the servicing, repair and garaging of

trucks and other vehicles used in a road transport undertaking but does not include a road transport terminal.

vacant land means land on which no dwelling is erected.

- (2) In this plan, a reference to the destruction of a tree is a reference to the ringbarking, cutting down, felling, poisoning, topping, lopping, removing or other destruction or injury of a tree.
- (3) In this plan:
 - (a) a reference to a map is a reference to a map deposited in the office of the Council, and
 - (b) 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.

6 Adoption of Model Provisions

- (1) The *Environmental Planning and Assessment Model Provisions 1980*, except for:
 - (a) the definition of **agriculture, arterial road, commercial premises, map, mine** and **residential flat building** in clause 4 (1), and
 - (b) clauses 7, 15, 29, 32, 33 and 34,are adopted for the purposes of the this plan.

7 Consent authority

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

Part 2 Zones

8 Zones indicated on the map

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

Zone No 1 (a) (General Rural)—edged heavy black and lettered “1 (a)”.

Zone No 1 (c) (Rural Small Holdings—Rural Residential)—edged heavy black and lettered “1 (c)”.

Zone No 1 (c1) (Rural Small Holdings—Rural Retreat)—edged heavy black and lettered “1 (c1)”.

Zone No 2 (v) (Village or Urban)—edged heavy black and lettered “V”.

Zone No 4 (a) (Industrial)—edged heavy black and lettered “4 (a)”.

Zone No 7 (a) (Environmental Protection (Recreation)) edged heavy black and lettered “7 (a)”.

Zone No 7 (c) (Water Catchment—edged heavy black and lettered “7 (c)”.

Zone No 8 (a) (National Park)—edged heavy black and lettered “8 (a)”.

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 for which:
 - (a) development may be carried out without development consent, and
 - (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)

1 Objectives of zone

The objectives of this zone are to promote the proper management and utilisation of resources by:

- (a) protecting, enhancing and conserving:
 - (i) agricultural land in a manner which sustains its efficient and effective agricultural production potential,
 - (ii) soil stability by controlling and locating development in accordance with soil capability,
 - (iii) forests of existing and potential commercial value for timber

production,

- (iv) valuable deposits of minerals, coal, petroleum and extractive materials by controlling the location of development for other purposes in order to ensure efficient extraction of those deposits,
- (v) trees and other vegetation in environmentally sensitive areas where the conservation of the vegetation is significant to scenic amenity, recreation or natural wildlife habitat or is likely to control land degradation,
- (vi) water resources for use in the public interest,
- (vii) places and buildings of archaeological or heritage significance, including Aboriginal relics and places,
- (viii) the rural character and amenity of the zone,
- (b) preventing the unjustified development of prime crop and pasture land for purposes other than agriculture, and
- (c) facilitating farm adjustments, and
- (d) minimising the cost to the community of:
 - (i) fragmented and isolated development of rural land, and
 - (ii) providing, extending and maintaining public amenities and services, and
- (e) providing land for future urban development, for future rural residential development and for future development for other non-agricultural purposes, in accordance with the need for that development, and
- (f) encouraging the establishment of rural and rural-related industries.

2 Without development consent

Agriculture (other than ancillary dwellings), forestry (other than ancillary dwellings and commercial pine plantations).

3 Only with development consent

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

4 Prohibited

Dual occupancy; motor showrooms; residential flat buildings; shops (other than general stores not exceeding 100 square metres in gross floor area, craft establishments and ancillary tourist facilities); private waste disposal facilities.

Zone No 1 (c) (Rural small holdings—rural residential)

1 Objectives of zone

The objectives of this zone are to promote development of land identified as suitable for:

- (a) rural residential development, or
- (b) a range of rural industrial and storage purposes which are compatible with the environmental capabilities of the land and which are unlikely to adversely affect the land or development in the vicinity.

2 Without development consent

Agriculture (other than ancillary dwellings).

3 Only with development consent

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

4 Prohibited

Caravan parks; commercial premises; dual occupancy; hotels; intensive livestock keeping establishments; motor showrooms; residential flat buildings; shops (other than general stores not exceeding 100 square metres in gross floor area, craft establishments and ancillary tourist facilities); offensive or hazardous industries; junk yards; materials recycling yards; private waste disposal facilities; sawmills.

Zone No 1 (c1) (Rural small holdings—rural retreat)

1 Objectives of zone

The objectives of this zone are:

- (a) to promote development of land identified as suitable for:
 - (i) rural retreat or hobby farm development, or

(ii) a range of rural, industrial and storage purposes which are compatible with the environmental capabilities of the land and which are unlikely to adversely affect the land or development in the vicinity and,

(b) to enable other forms of development which are:

(i) in keeping with the rural character of the locality and compatible with existing, and likely future, rural retreat holdings, and

(ii) compatible with the environmental capabilities of the land and are unlikely to adversely affect the land or development in the vicinity.

2 Without development consent

Agriculture (other than ancillary dwellings).

3 Only with development consent

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

4 Prohibited

Caravan parks; commercial premises; dual occupancy; hotels; intensive livestock keeping establishments; motor showrooms; residential flat buildings; shops (other than general stores not exceeding 100 square metres in gross floor area, craft establishments and ancillary tourist facilities); offensive or hazardous industries; junk yards; materials recycling yards; private waste disposal facilities; sawmills.

Zone No 2 (v) (Village or urban)

1 Objectives of zone

The objective of this zone is to promote development in existing towns and villages in a manner which is compatible with their urban function, and to protect and enhance the character and amenity of the individual towns and villages, whilst providing for future urban expansion.

2 Without development consent

Dwelling house and additions thereto.

3 Only with development consent

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

4 Prohibited

Extractive industries; intensive livestock keeping establishments; mine offensive or hazardous industries; materials recycling yards; private waste disposal facilities.

Zone No 4 (a) (Industrial)

1 Objectives of Zone

The objectives of this zone are:

- (a) to encourage development of land for the purpose of industry which will contribute to economic growth and employment opportunities within the area, and
- (b) to enable certain other forms of development compatible with or ancillary to the industrial use of the land, and
- (c) to provide opportunities for non-industrial commercial activities that may reasonably be located in an industrial zone.

2 Without development consent

Nil.

3 Only with development consent

Industries; materials recycling yards; service and utility installations.

Any purpose associated with, ancillary to, dependent on, or providing services to, industries, materials recycling yards or service and utility installations.

Any other purpose (not specified in item 4) which, by virtue of its nature, the services provided or the products produced, distributed or sold, is in the opinion of the Council appropriately located in the industrial zone.

4 Prohibited

Boarding houses; caravan parks; dwelling-houses (other than those used in conjunction with and situated on the same land as an industry); dual occupancy; extractive industries; hospitals; institutions; mines; motels; private waste disposal facilities; residential flat buildings.

Any other purpose not included in item 3.

Zone No 7 (a) (Environmental Protection (Recreation))

1 Objectives of zone

The objectives of this zone are:

- (a) to ensure the protection of environmentally sensitive land and areas of high scenic value in the shire, and
- (b) to restrict development on land which is inappropriate by reason of its physical characteristics, and
- (c) to encourage the restoration of disturbed bushland areas, and
- (d) to provide for passive recreation activities so that they are compatible with the land's environmental characteristics, and
- (e) to facilitate the preservation and conservation of the native flora and fauna of the Shire.

2 Without development consent

Bushfire hazard reduction works; gardening and landscaping which does not involve the erection of buildings.

3 Only with development consent

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

4 Prohibited

Agriculture; caravan parks; commercial premises; dual occupancy; dwelling-houses; hotels; intensive livestock keeping establishments; junk yards; motor showrooms; offensive or hazardous industries; private waste disposal facilities; residential flat buildings; shops (other than craft establishments and ancillary tourist facilities); materials recycling yards; private waste disposal facilities.

Zone No 7 (c) (Water Catchment)

1 Objectives of zone

The objectives of this zone are:

- (a) to protect the water catchment of the area of Rylstone, and
- (b) to maintain the quality of the natural environment, and

- (c) to encourage the restoration of disturbed areas around rivers, streams, springs and water supplies, and
- (d) to restrict development on land that is inappropriate by reason of its location or physical characteristics.

2 Without development consent

Agriculture (other than ancillary dwellings) more than 20 linear metres from the high water mark of the Rylstone water supply dam.

3 Only with development consent

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

4 Prohibited

Dual occupancy; intensive livestock keeping establishments; motor showrooms; residential flat buildings; shops (other than general stores not exceeding 100 square metres in gross floor area, craft establishments and ancillary tourist facilities)); materials recycling yards; private waste disposal facilities.

Zone No 8 (a) (National Park)

1 Objectives of zone

The objectives of this zone are:

- (a) to identify lands which are dedicated or reserved under the *National Parks and Wildlife Act 1974*, as national parks, nature reserves, historic sites, aboriginal places and state game reserves, and
- (b) to allow for the management and appropriate use of that land as provided for in the *National Parks and Wildlife Act 1974*, and
- (c) to encourage the protection or preservation of the existing national parks within the Shire, and
- (d) to restrict development on land that is inappropriate by reason of its location or physical characteristics.

2 Without development consent

Any purpose authorised by the *National Parks and Wildlife Act 1974*.

3 Only with development consent

Nil.

4 Prohibited

Any purpose other than a purpose included in item 2.

Part 3 Special provisions

10 General considerations for development within rural zones

- (1) The Council shall not consent to an application to carry out development on land within Zone No 1 (a), 1 (c), 1 (c1), 7 (a) or 7 (c), unless it has taken into account the effect of the carrying out of that development on:
 - (a) the present use of the land, the potential use of the land for the purposes of agriculture and the potential of any land which is prime crop and pasture land for sustained agricultural production,
 - (b) vegetation, timber production, land capability (including soil resources and soil stability) and water resources (including the quality and stability of water courses and ground water storage, riparian rights and springs),
 - (c) the future extraction of known valuable deposits of minerals, coal, petroleum, sand, gravel or other extractive materials and localities considered to be prospective for those materials,
 - (d) the protection of localities of significance for nature conservation or of high scenic or recreational value, and places and buildings of archaeological or heritage significance, including Aboriginal relics and places,
 - (e) the cost of providing, extending and maintaining public amenities and services to the development,
 - (f) the impact on endangered flora or fauna, specified in Schedule 2 as being present in the location in which the development is proposed to be carried out, and
 - (g) future expansion of settlements in the locality.
- (2) Before granting consent for any such development in the locality referred to in Schedule 2, the consent authority must notify the Director-General of National Parks and Wildlife of the proposed development and take into consideration any comments received from the National Parks and Wildlife Service within 28 days after the notice is sent about the likely effect of the development on endangered flora, fauna or Aboriginal heritage.
- (3) As well as the matters referred to in subclause (1), the Council shall take into

consideration the relationship of the proposed development to existing development on adjoining land or on other land in the locality.

- (4) Subclause (1) and (2) do not apply to the consideration of an application to carry out development consisting of:
- (a) an addition to a building or work,
 - (b) development ancillary to a purpose for which development may be carried out with the consent of the Council under this plan, or
 - (c) the erection of a dwelling-house on an allotment of land created in accordance with this plan for the purpose of a dwelling-house.

11 Subdivision of land generally

- (1) A person shall not subdivide land to which this plan applies except with the consent of the Council.
- (2) The Council shall not consent to a subdivision of land within Zone No 1 (a), 1 (c), 1 (c1) or 7 (c) unless it has obtained all relevant information in relation to, and made an assessment of:
- (a) the primary purpose for which each of the proposed allotments is intended to be used, and
 - (b) whether any such allotment is intended to be used primarily for the purpose of agriculture, and
 - (c) whether a dwelling-house is intended to be erected on any such allotment and the suitability of the allotment for the erection of a dwelling-house.

12 Subdivision for the purposes of agriculture within Zone No 1 (a)

The Council may consent to the subdivision of land within Zone No 1 (a) so as to create an allotment of any area if the Council is satisfied that the allotment is intended to be used for the purposes of agriculture.

13 Subdivision for the purposes of dwellings within Zone No 1 (a)

- (1) The Council may consent to the subdivision of land within Zone No 1 (a) if the Council is satisfied that each of the allotments to be created by the subdivision is intended to be used for the purpose of a dwelling house, but only if each allotment:
- (a) has an area of not less than 40 hectares, provided that one concessional allotment of less than 4 hectares but not less than 0.4 hectares may be created for a relative of the owner or for the owner,
 - (b) is unlikely adversely to affect the existing and potential capability of the land and

adjacent land to produce food or fibre or to be used for other agricultural purposes, and

(c) does not comprise prime crop and pasture land.

(2) Notwithstanding any other provision of this plan, the Council may consent to the subdivision of land within Zone No 1 (a) resulting in the creation of one but not more than one allotment on which a dwelling-house stands from an existing holding if that dwelling-house was lawfully erected on that land on or before the appointed day.

14 Subdivision for other purposes within Zone No 1 (a)

(1) The Council shall not consent to the subdivision of land within Zone No 1 (a) if the Council is satisfied that any allotment to be created by the subdivision is to be used primarily for purposes other than agriculture or a dwelling-house, unless, in the opinion of the Council:

(a) none of the subject land is prime crop and pasture land, and

(b) the area of each allotment to be created by the subdivision is appropriate, having regard to the purpose for which it is being created.

(2) Nothing in subclause (1) prevents the Council from granting consent to an application to subdivide land to create an allotment to be used for a purpose other than agriculture or a dwelling-house if the Council is satisfied that:

(a) the purpose for which the allotment is to be used involves the supply of goods or services for which there is a demand in the locality, and

(b) the land could reasonably be used for that purpose, and

(c) the anticipated level of demand for the goods or services which are to be supplied from the allotment, and the extent to which that allotment will be used to meet that demand, justify the creation of the allotment notwithstanding its agricultural value.

15 Subdivision for the purposes of dwellings within Zone No 1 (c)

(1) The Council shall not consent to the subdivision of land within Zone No 1 (c) unless each allotment to be created has an area of 2 hectares or more and the Council is satisfied that each allotment will be used primarily for the purposes of a dwelling.

(2) The Council shall not grant consent to the subdivision of land as referred to in subclause (1) unless it has taken into consideration:

(a) the land capability (including soil resources and soil stability), natural constraints and hazards of the land to be subdivided in relation to the number of the allotments proposed to be created, and

- (b) the desirability of providing a range and mixture of allotment sizes, and
- (c) whether each allotment to be created by the subdivision is suitable for the economic provision of services, and
- (d) whether each allotment to be created by the subdivision is suitable for the for on-site disposal of private wastes.

16 Development of certain lands within Zone No 1 (c)

- (1) This clause applies to certain lands in Zone No 1 (c) being:
 - (a) portions 90 and 91 of the parish of Dabee and lot 2, DP 712926, in the vicinity of McLachlan Street and Calderwood Road, Rylstone, and
 - (b) the village of Clandulla.
- (2) Despite any other provision of this plan, a person may, with the consent of the Council, subdivide the land to which this clause applies into allotments of not less than 0.8 hectares in area.

17 Subdivision for the purposes of dwellings within Zone No 1 (c1)

- (1) The Council shall not consent to the subdivision of land within Zone No 1 (c1) unless each allotment to be created has an area of 10 hectares or more and the Council is satisfied that each allotment will be used primarily for the purposes of a dwelling-house.
- (2) The Council shall not grant consent to the subdivision of land as referred to in subclause (1) unless it has taken into consideration:
 - (a) the land capability (including soil resources and soil stability), natural constraints and hazards of the land to be subdivided in relation to the number of the allotments proposed to be created, and
 - (b) the desirability of providing a range and mixture of allotment sizes, and
 - (c) whether each allotment to be created by the subdivision is suitable for the economic provision of services, and
 - (d) whether each allotment to be created by the subdivision is suitable for the on-site disposal of private wastes.

18 Subdivision of land in Zone No 2 (v)

- (1) A person may, with the consent of the Council, subdivide land within Zone No 2 (v) to create an allotment that the Council is satisfied will be used for the purpose of a dwelling-house only if the allotment has:
 - (a) where the allotment is not hatchet-shaped, an area of 600 square metres or more,

in the case of land in the villages of Rylstone and Kandos, and

(b) where the allotment is hatchet-shaped, an area of 1000 square metres or more, in the case of land in the villages of Rylstone and Kandos, and

(c) 2,000 square metres or more, in the case of land in the village of Charbon.

(2) The Council shall not grant consent to the subdivision of land as referred to in subclause (1) unless it has taken into consideration:

(a) the land capability (including soil resources and soil stability), natural constraints and hazards of the land to be subdivided in relation to the number of the allotments proposed to be created, and

(b) the desirability of providing a range and mixture of allotment sizes, and

(c) whether each allotment to be created by the subdivision is able to be provided with services, and

(d) where reticulated sewer is not available, the allotment's suitability for the on-site disposal of private wastes, and

(e) the proposed access to each allotment to be created, and

(f) the shape and frontage of each allotment, and

(g) the impact of the subdivision on the future development of the town or village.

19 Subdivision of land in Zone No 4 (a)

(1) The Council shall not consent to the subdivision of land within Zone No 4 (a) unless each allotment to be created has an area of 1000 square metres or more and the Council is satisfied that each allotment will be used primarily for the purposes of light industry.

(2) The Council shall not grant consent to the subdivision of land as referred to in subclause (1) unless it has taken into consideration:

(a) the land capability (including soil resources and soil stability), natural constraints and hazards of the land to be subdivided in relation to the number of the allotments proposed to be created, and

(b) the desirability of providing a range and mixture of allotment sizes, and

(c) whether each allotment to be created by the subdivision is suitable for the economic provision of services, and

(d) whether each allotment to be created by the subdivision is suitable for the for on-site disposal of private wastes, and

- (e) the proposed access to each allotment to be created, and
- (f) the shape and frontage of each allotment, and
- (g) the impact of the subdivision on the future development of the area of Rylstone.

20 Subdivision for the purposes of dwellings within Zone No 7 (c)

- (1) The Council may consent to the subdivision of land within Zone No 7 (c) if the Council is satisfied that each of the allotments to be created by the subdivision is intended to be used for the purpose of a dwelling house, but only if each allotment in that subdivision:
 - (a) has an area of not less than 40 hectares provided that one concessional allotment of less than 4 hectares but not less than 0.4 hectare may be created for a relative of the owner or for the owner, and
 - (b) is unlikely to adversely affect the existing and potential capability of the land and adjacent land to produce food or fibre or to be used for other agricultural purposes, and
 - (c) is not likely to have an adverse impact on the water quality of the location, and
 - (d) does not comprise prime crop and pasture land.
- (2) Notwithstanding any other provision of this plan, the Council may consent to the subdivision of land within Zone No 7 (c) resulting in the creation of one but not more than one allotment on which a dwelling stands from an existing holding if that dwelling was lawfully erected on that land on or before the appointed day.

21 Subdivision for other purposes within Zone No 7 (c)

- (1) The Council shall not consent to the subdivision of land within Zone No 7 (c) if the Council is satisfied that any allotment to be created by the subdivision is to be used primarily for purposes other than agriculture or a dwelling-house, unless, in the opinion of the Council:
 - (a) none of the subject land is prime crop and pasture land, and
 - (b) the area of each allotment to be created by the subdivision is appropriate, having regard to the purpose for which it is being created.
- (2) Nothing in subclause (1) prevents the Council from granting consent to an application to subdivide land to create an allotment to be used for a purpose other than agriculture or a dwelling-house if the council is satisfied that:
 - (a) the purpose for which the allotment is to be used involves the supply of goods or services for which there is a demand in the locality, and

- (b) the land could reasonably be used for that purpose, and
- (c) the anticipated level of demand for the goods or services which are to be supplied from the allotment, and the extent to which that allotment will be used to meet that demand, justify the creation of the allotment notwithstanding its agricultural or protection value.

22 Dwelling-houses within Zone No 1 (a) and Zone No 7 (c)

A person may, with the consent of the Council, erect a dwelling-house on vacant land within Zone No 1 (a) and Zone No 7 (c) only if the land comprises:

- (a) an existing holding, or
- (b) an allotment created in accordance with this plan that the Council is satisfied will be used for a purpose other than agriculture, or
- (c) an allotment created in accordance with a consent granted before the appointed day, being an allotment on which a dwelling could have been erected immediately before the appointed day, or
- (d) an allotment having an area of not less than 40 hectares.

23 Erection of additional dwellings within Zones Nos 1 (a), 1 (c), 1 (c1) and 7 (c)

- (1) The Council may consent to the erection of one or more additional dwelling-houses on land within Zone No 1 (a) or 7 (c), or one additional dwelling on land within Zone No 1 (c) or 1 (c1), if:
 - (a) a dwelling-house could be erected on the land in accordance with clause 22 if it were vacant land, where the land is within Zone No 1 (a) or Zone No 7 (c), and
 - (b) no additional access to an arterial road is required from the land, and
 - (c) separate ownership of the proposed dwelling-house could be achieved only by a subdivision of the land, and
 - (d) in the opinion of the Council, the dwelling-house to be erected on the land will not interfere with the purpose for which the land is being used, and
 - (e) the erection of the additional dwelling-house does not impact on the environmental and scenic amenity of the area.
- (2) The Council shall not consent to the subdivision of land on which any additional dwelling-house is erected in pursuance of this clause except in accordance with this plan.
- (3) The Council must not grant a consent pursuant to this clause that may result in the existence on a piece or parcel of land within Zone No 1 (c) of more than one dwelling-

house the erection of which was consented to pursuant to this clause.

24 Preservation of trees

- (1) This provision applies to all land within Zone No 2 (v) in the villages of Rylstone, Kandos and Charbon, to land within Zone No 1 (c) in the village of Clandulla and to the rural village area of Ilford.
- (2) A person shall not, except with the consent of the Council, ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree.
- (3) The consent of Council is not required:
 - (i) for the pruning of any tree for the purpose of its regeneration or shaping, or
 - (ii) where the action proposed with respect to the tree is necessary to prevent imminent personal injury or imminent damage to property, or
 - (iii) where the tree has otherwise become dangerous, or
 - (iv) for the removal of noxious plants.
- (4) This clause does not apply to require consent for anything required to be done by the *Electricity (Overhead Line Safety) Regulation 1991*.

25 Applications that must be advertised

The provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of development:

- (a) for any of the purposes specified in Schedule 3, or
- (b) for any other purpose that the Council may from time to time by resolution consider required advertising,

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

26 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) access to that land is provided by a road other than the arterial road, wherever practicable, and
 - (b) in the opinion of the Council, the safety and efficiency of the arterial road will not be adversely affected by:
 - (i) the access to the proposed development, or
 - (ii) the emission of smoke or dust from the proposed development, or

(iii) the nature, volume or frequency of vehicles using the arterial road to gain access to the proposed development.

(2) The Council shall not consent to the development of land within Zone No 1 (a) for any purpose listed in Schedule 4 if the development will have direct access to an arterial road unless the application has been assessed having regard to:

- (a) the nature, scale and function of any building erected on the land,
- (b) the minimisation of distraction to drivers using the road,
- (c) the maximisation of sight distances for drivers using the roads, and
- (d) the need for any building erected on the land to be sited and designed to maintain the rural character of the locality.

27 Environmentally sensitive land

(1) A person shall not carry out development on environmentally sensitive land for any of the following purposes:

- (a) intensive livestock keeping establishments,
- (b) junk yards,
- (c) liquid fuel depots,
- (d) offensive or hazardous industries,
- (e) sawmills,
- (f) stock and sales yards.

(2) A person shall not, except with the consent of the Council, cause the destruction of trees on:

- (a) more than one hectare of environmentally sensitive land of an existing holding, or
- (b) more than 5 percent of the areas of an existing holding, where that 5 percent comprises environmentally sensitive land,

whichever is less.

(3) The Council shall not grant a consent referred to in subclause (2) unless, in the opinion of the Council, the destruction of trees on the land will be carried out in a manner which, in respect of that land and adjacent land, minimises:

- (a) the risk of soil erosion or other land degradation, and
- (b) the loss of scenic amenity, and

- (c) the loss of important vegetation systems and natural wildlife habitats.

28 Flood liable land

A person shall not erect a building or carry out any works for any purpose on flood liable land except with the consent of the Council.

29 Land subject to bushfire hazards

The Council shall not grant consent to the subdivision of land or to the erection of a building on land 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, and
- (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.

30 Heritage items

- (1) The following development may be carried out only with development consent:
 - (a) demolishing, defacing, damaging or moving a heritage item or a building, work, relic, tree or place within a heritage conservation area,
 - (b) altering a heritage item or a building, work or relic within a heritage conservation area by making structural changes to its exterior,
 - (c) altering a heritage item or a building, work or relic within a heritage conservation area by making non-structural changes to the detail, fabric, finish or appearance of its exterior, except changes resulting from any maintenance necessary for its ongoing protective care which do not adversely affect its heritage significance,
 - (d) moving a relic, or excavating land for the purpose of discovering, exposing or moving a relic,
 - (e) erecting a building on, or subdividing, land on which a heritage item is located or which is within a heritage conservation area.
- (2) Development consent is not required by this clause if the Council is of the opinion that the proposed development would not adversely affect the heritage significance of the heritage item or heritage conservation area.
- (3) When determining a development application required by this clause, the Council must take into consideration the extent to which carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area.

31 Development in the vicinity of heritage items

The Council must take into consideration the likely effect of the proposed development on the heritage significance of heritage item, heritage conservation area, archaeological site or potential archaeological site, and on its setting, when determining an application for consent to carry out development on land in its vicinity.

32 Heritage conservation areas

- (1) A person must not, in respect of a heritage conservation area:
 - (a) demolish or alter a building or work within the area, or
 - (b) damage or move a relic within the area, or
 - (c) excavate for the purpose of exposing a relic within the area, or
 - (d) damage or despoil a place within the area, or
 - (e) erect a building on or subdivide land within the area,except with the consent of the Council.
- (2) When considering applications for consent to the erection of a building within a heritage conservation area, the Council must make an assessment of:
 - (a) the pitch and form of the roof, if any, and
 - (b) the style, size, proportion and position of the openings for windows and doors, if any, and
 - (c) whether the colour, texture, style, size and type finish of the materials to be used on the exterior of the building are compatible with the materials used in the existing buildings in the heritage conservation area.

33 Heritage advertisements and notifications

- (1) Except as provided by this clause, the provisions of section 84, 85, 86, 87 (1) and 90 of the Act apply to:
 - (a) the demolishing, defacing or damaging of a heritage item or a building, work, relic, tree or place within a heritage conservation area, 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) Before granting development consent to the demolishing, defacing or damaging of a

heritage item, the Council must notify the Heritage Council of its intention to do so and take into consideration any comments received from the Heritage Council within 28 days after the notice is sent.

- (3) This clause does not apply to the partial demolition of a heritage item or a building or work within a heritage conservation area 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 relating to heritage items

- (1) The Council may grant consent to the use, for any purpose, of a building that is a heritage item or within a heritage conservation area, or the land on which the building is erected, even though the use would otherwise be prohibited by this plan, if it is satisfied that:
 - (a) the proposed use would not adversely affect the heritage significance of the item or heritage conservation area, or
 - (b) the conservation of the building depends on the granting of the consent.
- (2) When considering an application for consent to erect a building on land on which a heritage item is located, or on land within a heritage conservation area, the Council may, for the purpose of determining:
 - (a) the floor space ratio, and
 - (b) the number of parking spaces to be provided on the site,exclude the floor space of the building from its calculation of the floor space of the buildings erected on the land but only if the Council is satisfied that the conservation of the building depends on making the exclusion.

35 Advertising structures or advertisements

- (1) A person shall not erect an advertisement on land to which this plan applies, except with the consent of Council.
- (2) The Council in considering an application for consent to erect an advertisement, shall take into consideration:
 - (a) the impact on the amenity of the land in the vicinity, and
 - (b) any likely impact on the safety of the travelling public, and
 - (c) whether the advertising structure or advertisement relates to the land, or premises on that land, and

- (d) whether the advertising structure or advertisement directs the travelling public to tourist areas or facilities and place of scientific, cultural, historical or scenic interest.

36 Private roads

A person, other than Council, shall not construct a road which has access to a public road, except with the consent of the Council.

37 Development for recreation vehicle areas

The Council shall not consent to a development application for a recreation vehicle area, unless it has considered:

- (a) the provisions of the guidelines entitled "Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas" published by the Soil Conservation Service of N.S.W in September 1985, and
- (b) the provisions of guidelines entitled "Recreation Vehicles Act 1983", *Guidelines for Selection, Design and Operation of Recreation Vehicle Areas* published by the State Pollution Control Commission in September 1985.

Schedule 1 Heritage items

(Clause 5 (1))

No	Building	Property	Location
1	Uniting Church	Lots 13/14 Sec 24, Dunn St,	Kandos
2	Band Rotunda	Pub Res, Angus Ave,	Kandos
3	Anglican Church	Lot 11 Sec 9, Angus Ave,	Kandos
4	Post Office	Lot 1 Sec 5, Angus Ave,	Kandos
5	Museum	Lot 10 Sec 1, Buchanan St,	Kandos
6	Court House	Lot 203, Ilford Rd,	Kandos
7	School	Lots 3/4 Sec 17, Fleming St,	Kandos
8	Railway Station	SRA Ref 930448,	Kandos
9	Catholic Church	Lot 5 Sec 4, DP9750, Flemming St,	Kandos
10	Uniting Church	Pt Por 22,	Parish Warrangunia
11	Stone Church	Por 144,	Parish Hearne
12	Church of England	Pt Por 25,	Parish Warrangunia
13	Catholic Church	Por 255,	Parish Warrangunia

14	Church of England and Cemetery	Pt Por 5,	Parish Budden
15	School	Por 34,	Parish Crudine
16	Cemetery	Pors 43/46,	Parish Crudine
17	Cemetery	Pors 107/110,	Parish Warrangunia
18	Cemetery	Pt Por 27,	Parish Hearne
19	Cemetery	Por 6,	Village Glen Alice
20	Dwelling (Anglican Rectory)	Lot 7/10 Sec 6, Mudgee St,	Rylstone
21	Anglican Church	Lot 7/10 Sec 6, Mudgee St,	Rylstone
22	Catholic Church	Lots 4/5 Sec 5A, Louee St,	Rylstone
23	Police Residence	Pt Lots 4/5 Sec 5, Louee St,	Rylstone
24	Police Station	Lots 1/2 Sec 5, Louee St,	Rylstone
25	Court House	Pt Lots 3/4 Sec 5, Louee St,	Rylstone
26	Post Office	Lot 10 DP 776797, Louee St,	Rylstone
27	Shire Office	Lot 8 Sec 5, Louee St,	Rylstone
28	Hall	Lots 9/10 & 21 Sec 5, Louee St,	Rylstone
29	Railway Station	SRA Ref 227462,	Rylstone
30	Railway Station	SRA Ref 205564,	Clandulla
31	School Residence	Pt Por 260, Parish Warrangunia,	Ilford
32	Church	Lot 41, Parish Umbiella,	Glen Alice
33	Wishing Well	Road reserve at Cherry Tree Hill,	Ilford

Schedule 2 Location of known endangered flora and fauna

(Clause 10 (1))

Species Common name	Scientific Name	Location
Red-tailed Black Cockatoo	<i>Calyptorhynchus banksii</i>	Glen Davis—WNP
Red-tailed Black Cockatoo	<i>Calyptorhynchus banksii</i>	Nullo Mtn—WNP
Glossy Black Cockatoo	<i>Calyptorhynchus lathami</i>	Murrumbo
Turquoise Parrot	<i>Neopheme pulchella</i>	Murrumbo
Large Pied Bat	<i>Chalinolobus dwyeri</i>	Bogee
Brush-tailed Rock Wallaby	<i>Petrogale penicillata</i>	Box Ridge—WNP
Koala	<i>Phascolarctos cinereus</i>	Oakey Creek, Cudgegong

Species Common name	Family Name	Location
Tiger Quoll	Dagyrurus maculatus	Cooranggooba Creek—WNP
Acacia Hockloiae Maiden	Mimosaceae	Coxs Gap—WNP
Acacia Murrumboensis	Mimosaceae	Murrumbo
Alania endlichen Kunth	Lillaccae	Coricudgy Ck, Nth Mt Wilwarri—WNP
Boronia rubiginosa	Rutaceae	Murrumbo
Boronia Rubigniosa	Rutaceae	Lee Ck, East Mt Graham—WNP
Epacris muelleri Sonder	Epacridaceae	Mushroom Flat—Coricudgy SF
Epacris muelleri Sonder	Epacridaceae	West of Dams Mt Creek—WNP
Epacris muelleri Sonder	Epacridaceae	Mt Coorongooba—WNP
Epacris muelleri Sonder	Epacridaceae	Mt Marsden
Epacris muelleri Sonder	Epacridaceae	Sheridan Hill—WNP
Epacris muelleri Sonder	Epacridaceae	Kekeelban Mts—WNP
Eriaetoman edifolius Benth	Rulaceae	Marsden
Eucalyptus cannonii	Myrtaceae	Bogee
Eucalyptus cannonii	Myrtaceae	Cudgegong River—East of Olinda
Eucalyptus cannonii	Myrtaceae	Mt Marsden
Gonocarpus longitoli	Haloragaceae	Nth Mt Gangang—WNP
Gonocarpus longitoli	Haloragaceae	Breakfast Creek
Gonocarpus longitoli	Haloragaceae	Sheridan Hill—WNP
Gonocarpus longitoli	Haloragaceae	Mt Coorongooba—WNP
Gonocarpus longitoli	Haloragaceae	Mushroom Flat—Coricudgy SF
Gonocarpus longitoli	Haloragaceae	Nullo Mtn SF
Gonocarpus longitoli	Haloragaceae	West of Dams Mt Creek—WNP
Gonocarpus longitoli	Haloragaceae	SE of Olinda
Gonocarpus longitoli	Haloragaceae	Mt Misery—GRNP
Gonocarpus longitoli	Haloragaceae	Thunderbolts Gully—GRNP
Helichrysum tessellatum	Asteraceae	Murrumbo
Homoranthus darwinioides	Myrtaceae	Growee River, East of Mt Graham
Homoranthus darwinioides	Myrtaceae	Oaky Ck, South of Widden—WNP
Homoranthus darwinioides	Myrtaceae	Mt Cox—WNP

Homoranthus darwinioides	Myrtaceae	Middle Hill—WNP
Phebalium sympeialum	Rutaceae	Sheridan Hill—WNP
Platysace clelandi (Maiden)	Apiacea	Capertee River/Running Stream
Pomaderris pacitlora	Rhamnaceae	Nullo Mtn SF
Prostanthera Discolor	Lamiaceae	Mt Kerrabee—GRNP
Prostanthera Discolor	Lamiaceae	Murrumbo
Pultanaea galbra Benth	Habaceae	Coricudgy SF
Pultenaca glabra Benth	Fabaceae	Coonongooba Ck, Running Stream Ck
Swainsona recta	Fabaceae	10 Km East of Mt Graham
Rulingie hermanniflora	Sterculiaceae	Olinda—East

Schedule 3 Development which must be advertised

(Clause 25 (1))

- 1 The demolition of a building or work that is an item of the environmental heritage, or is within a heritage conservation area (not being partial demolition which in the opinion of the Council is of a minor nature and does not adversely affect the significance of the building or work as part of the environmental heritage of the area of Rylstone).
- 2 Boarding houses; hotels; motels; residential flat buildings.
- 3 Offensive or hazardous industries in Zone No 1 (a), 1 (c) or 1 (c1).
- 4 Intensive livestock keeping; junk yards; liquid fuel depots; sawmills; or stock and sales yards.

Schedule 4 Development with special access

(Clause 26 (2))

Abattoirs
Advertising structures
Boarding houses
Bulk Stores
Caravan parks
Car repair stations
Child care centres
Clubs
Commercial premises
Community centres
Educational establishments
Gas holders
General stores
Generating works
Helipads

Heliports
Holiday cabins
Hospitals
Hotels
Industries (other than home or rural industries)
Institutions
Junk yards
Liquid fuel depots
Mines
Motels
Motor showrooms
Parking (other than in association with a permissible use)
Places of public assembly
Places of public worship
Plant depots
Professional consulting rooms
Public buildings
Reception establishments
Recreation establishments
Recreation facilities
Refreshment rooms
Residential flat buildings
Retail plant nurseries
Roadside stalls
Saw mills
Service stations
Shops
Stock and sales yards
Transport terminals
Warehouses