

Bogan Local Environmental Plan 1991

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New South Wales

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New South Wales

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Bogan Local Environmental Plan 1991



New South Wales

Part 1 Preliminary

1 Name of plan

This plan may be cited as *Bogan Local Environmental Plan 1991*.

2 Aims, objectives etc

The general aims of this plan are:

- (a) to maintain and enhance the town of Nyngan as the major urban, administrative and service centre within the Shire of Bogan,
- (b) to promote the villages of Coolabah, Girilambone and Hermidale as rural service communities,
- (c) to increase employment opportunities within the Shire of Bogan, particularly through the efficient use of resources and the expansion of the tourism industry,
- (d) to encourage the proper management, development and conservation of natural and man-made resources within the Shire of Bogan by protecting, enhancing or conserving:
 - (i) prime crop and pasture land,
 - (ii) timber, minerals, soil, water and other natural resources,
 - (iii) areas of significance for nature conservation,
 - (iv) areas of high scenic or recreational value, and
 - (v) places and buildings of archaeological or heritage significance, including aboriginal relics and places, and
- (e) to facilitate growth and development of the Shire of Bogan in a manner which is consistent with the aims specified in paragraphs (a) to (d) and which:
 - (i) minimises the cost to the community of fragmented and isolated development of rural land,

- (ii) facilitates the efficient and effective delivery of amenities and services,
- (iii) facilitates a range of residential and employment opportunities in accordance with demand,
- (iv) facilitates farm adjustments, and
- (v) ensures that the efficiency of arterial roads is not adversely affected by development on adjacent land.

3 Land to which plan applies

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

4 Relationship to other environmental planning instruments

Bogan Local Environmental Plan No 1 and such other local environmental plans as, immediately before the appointed day, applied to the land to which this plan applies, are (to the extent to which those plans then applied to the land) repealed.

5 Definitions

(1) In this plan:

aerodrome means land used to permit aircraft to take-off and land as shown edged with broken black lines and marked "Aerodrome" on the map.

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 the maintenance of the existing detail, fabric, finish or appearance of the outside of the heritage item.

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

arterial road means:

- (a) an existing road indicated on the map by heavy black lines, or
- (b) a classified road within the meaning of the [State Roads Act 1986](#).

caravan park means land used as a site for movable dwellings (including tents and caravans or other vehicles) used for temporary or permanent accommodation.

conservation plan means a document stating the significance of a heritage item and identifying the policies that are appropriate to enable that significance to be retained in its future use and development.

Council means the Council of the Shire of Bogan.

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.

environmentally sensitive land means land identified as Rural Land Capability class V11 on a map prepared by or on behalf of the Commissioner of the Soil Conservation Service.

existing holding means:

- (a) except as provided by paragraph (b), the area of a lot, portion or parcel of land as it was as at 12 March 1982, or
- (b) where as at 12 March 1982, a person owned 2 or more adjoining or adjacent lots, portions or parcels of land, the combined areas of those lots, portions or parcels as they were as at 12 March 1982.

flood liable land means land shown as flood liable on the map known as the “*Macquarie Valley Flood Plain Atlas 1984*” held in the office of the Bogan Shire Council.

heritage item means a building, work, relic, tree or place of heritage significance to the Shire of Bogan which is 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 by a feeding method other than natural grazing and, without limiting the generality of the foregoing, includes:

- (a) a feed lot,
- (b) a piggery,
- (c) a poultry farm, and
- (d) a fish farm (including a farm for nurturing crustaceans or oysters or both),

but does not include an establishment used for the keeping of livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of the land on which the establishment is situated.

land degradation means soil erosion involving the loss of productive capacity, stream turbidity and siltation, decline or loss of native vegetation, adverse changes in vegetation balance, salinity of soil or streams, or the deleterious effects of pesticides and fertilisers.

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

prime crop and pasture land means land to which this plan applies identified (on a map prepared by or on behalf of the Director-General of the Department of Agriculture and Fisheries, copies of which are deposited in an office of that Department, an office of the Western Lands Commissioner and in the office of the Council) as Class 1, Class 2 or Class 3 or as land of merit for special agricultural uses, but does not include land which the Director-General of the Department of Agriculture and Fisheries notifies the Council in writing is not prime crop and pasture land for the purposes of this plan.

recreation area means:

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

but does not include a racecourse or a showground.

relic means any deposit, object or material evidence (terrestrial or underwater) relating to the use or settlement of the area of the Shire of Bogan which is 50 or more years old.

the map means the set of maps marked "*Shire of Bogan Local Environmental Plan 1991*" as amended by the maps (or, if sheets of the maps are specified, by the specified sheets of the maps) marked as follows:

Bogan Local Environmental Plan 1991 (Amendment No 1)

Bogan Local Environmental Plan 1991 (Amendment No 3)

Bogan Local Environmental Plan 1991 (Amendment No 5)

tree includes a sapling and a shrub, but does not include any plant declared under the [Local Government Act 1919](#) to be a noxious plant throughout the whole of the State or Shire of Bogan.

- (2) In this plan, a reference to clearing is a reference to ringbarking, cutting down, felling, poisoning, removing or otherwise killing or destroying trees.

(3) In this plan:

- (a) a reference to a map is a reference to a map deposited in the office of the Council,
- (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, and
- (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 specified in clause 8 as the means of identifying land of the zone as specified.

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

7 Adoption of Model Provisions

(1) The *Environmental Planning and Assessment Model Provisions 1980* are adopted for the purposes of this plan, except for:

- (a) the definitions of **arterial road** and **map** in clause 4 (1), and
- (b) clauses 15, 29, 32, 33 and 34.

(2) For the purposes of this plan, the *Environmental Planning and Assessment Model Provisions 1980* (as adopted by this plan) are to be read as if:

- (a) the definition of **dwelling-house** in clause 4 (1) excluded a caravan or other movable dwelling not exceeding 30 square metres in gross floor area,
- (b) Schedule 1 excluded clause 7, and
- (c) Schedule 1 included the following clause:

12 The carrying out of works:

- (a) by, or on behalf of, a public authority in recreation areas or for the purposes of landscaping or gardening,
- (b) by, or on behalf of, the Bushfire Safety Council for the purposes of bushfire hazard reduction, or
- (c) on behalf of the Soil Conservation Service for the purposes of the control of soil erosion or other land degradation.

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)—uncoloured and lettered “1 (a)”.

Zone No 1 (c) (Rural Small Holdings Zone)—uncoloured with heavy black edging and lettered “1 (c)”.

Zone No 2 (a) (Residential Zone)—uncoloured with heavy black edging and lettered “2 (a)”.

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

Zone No 3 (Business Zone)—uncoloured with heavy black edging and lettered “3”.

Zone No 4 (Industrial Zone)—uncoloured with heavy black edging and lettered “4”.

Zone No 5 (b) (Special Uses—Railways Zone)—uncoloured with heavy black edging and lettered “5 (b)”.

Zone No 6 (a) (Open Space (Existing Recreation) Zone)—uncoloured with heavy black edging and lettered “6 (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 (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 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 the efficient extraction of those deposits,
 - (v) trees and other vegetation, particularly in environmentally sensitive areas where the conservation of the vegetation is significant to scenic amenity or natural wildlife habitat or is likely to control land degradation,
 - (vi) water resources for use in the public interest,
 - (vii) areas of significance for nature conservation, including areas with rare plants, wetlands and significant habitat, and
 - (viii) places and buildings of archaeological or heritage significance, including the protection of aboriginal relics and places,
- (b) preventing the unjustified development of prime crop and pasture land for purposes other than agriculture,
- (c) facilitating farm adjustments,
- (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 rural-residential

development and for development for other non-agricultural purposes, in accordance with the need for that development.

2 Without development consent

Agriculture (other than intensive livestock keeping establishments or dwelling-houses); forestry (other than pine plantations).

3 Only with development consent

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

4 Prohibited

Motor showrooms; residential flat buildings; shops (other than general stores not exceeding 100 square metres in gross floor area).

Zone No 1 (c) (Rural Small Holdings Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to promote the development of land identified as suitable for rural-residential or hobby farm purposes:
 - (i) in accordance with the need for that development, and
 - (ii) in a manner which does not interfere with the efficient and effective agricultural use of adjacent land or the extraction of valuable deposits of minerals, and
- (b) to provide a range and mixture of allotment sizes:
 - (i) to meet various individual needs, and
 - (ii) to ensure that the density of development carried out is compatible with land capability including soil resources, soil stability, natural constraints and hazards of the land,
- (c) to conserve trees and other natural vegetation where the conservation of the vegetation is significant to scenic amenity or natural habitat or is likely to control land degradation, and
- (d) to enable a range of light industrial and business purposes to be carried out in association with the rural residential or hobby farm use of land

where those industrial or business purposes are compatible with the environmental capability of the land and the amenity of the area.

2 Without development consent

Agriculture (other than intensive livestock keeping establishments) dwelling-houses on allotments created under clause 12 (6).

3 Only with development consent

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

4 Prohibited

Boarding-houses; caravan parks; commercial premises; extractive industries; hotels; institutions; intensive livestock keeping establishments; junk yards; liquid fuel depots; mines; motels; motor showrooms; offensive or hazardous industries; refreshment rooms; residential flat buildings; sawmills; shops (other than general stores not exceeding 100 square metres in gross floor area); stock and sale yards; warehouses.

Zone No 2 (a) (Residential Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to maintain (or provide) areas having a low density residential character, and
- (b) to allow environmentally compatible forms of non-residential development which do not unduly interfere with the amenity of the surrounding area and which provide services for the residents or are incidental to the residential use of the land.

2 Without development consent

Dwelling-houses; home occupations carried on in dwelling-houses.

3 Only with development consent

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

4 Prohibited

Bulk stores; car repair stations; extractive industries; generating works;

industries other than home industries; institutions; intensive livestock keeping establishments; junk yards; liquid fuel depots; mines; motor showrooms; sawmills; stock and sale yards; transport terminals; warehouses.

Zone No 2 (v) (Village or Urban Zone)

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 rural service function.

2 Without development consent

Dwelling-houses on allotments created under clause 12 (6).

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; mines; offensive or hazardous industries.

Zone No 3 (Business Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to accommodate a range of business purposes,
- (b) to encourage the consolidation of the business functions of the town of Nyngan, and
- (c) to encourage the growth of the central business district as the commercial and retail focus of the town of Nyngan and the surrounding Shire.

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose included in item 4.

4 Prohibited

Caravan parks; extractive industries; generating works; intensive livestock keeping establishments; junk yards; liquid fuel depots; mines; offensive or hazardous industries; rural industries; sawmills; stock and sale yards.

Zone No 4 (Industrial Zone)

1 Objectives of zone

The objective of this zone is to encourage the establishment of industries and related activities outside areas used or zoned for residential or business purposes by setting aside land where a broad range of industrial purposes may be permitted.

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose included in item 4.

4 Prohibited

Boarding-houses; caravan parks; dwelling-houses (other than those used in conjunction with industry and situated on the land on which such industry is conducted); hospitals; institutions; motels; places of assembly; residential flat buildings; shops (other than general stores not exceeding 100 square metres in gross floor area); tourist facilities.

Zone No 5 (b) (Special Uses—Railways Zone)

1 Objectives of zone

The objective of this zone is to provide for railway and ancillary purposes.

2 Without development consent

Nil.

3 Only with development consent

Development for any railway purpose including any railway purpose authorised by the *Transport Administration Act 1988*; drainage; roads.

4 Prohibited

Any purpose other than a purpose included in item 3.

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

1 Objectives of zone

The objective of this zone is to provide land for a variety of recreational pursuits.

2 Without development consent

Works for the purpose of landscaping, gardening and bushfire reduction.

3 Only with development consent

Agriculture (other than intensive livestock keeping establishments); buildings for the purpose of landscaping, gardening and bushfire reduction; drainage; public utility installations (other than gas holders or generating works); racecourses; recreation areas; roads; showgrounds.

4 Prohibited

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

Part 3 Special provisions

10 General considerations for development within Zone No 1 (a)

- (1) The Council shall not consent to an application to carry out development on land within Zone No 1 (a) unless it has taken into consideration, if relevant, 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 purpose 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 of water and stability of water courses and ground water storage and riparian rights),
 - (c) the future recovery from known or prospective areas of valuable deposits of minerals, coal, petroleum, sand, gravel or other extractive materials,
 - (d) the protection of areas of significance for nature conservation of high scenic or recreational value, and places and buildings of archaeological or heritage significance, including aboriginal relics and places,

(e) the costs of providing, extending and maintaining public amenities for services to the land, and

(f) future expansion of settlements in the locality.

(2) In addition to the matters referred to in subclause (1), the Council shall take into consideration the relationship of the proposed development to development on adjoining land or on other land in the locality.

11 Subdivision applications

(1) A person shall not subdivide land to which this plan applies, other than land under the management and control of the Western Lands Commissioner, except with the consent of the Council.

(2) The Council shall not consent to an application to subdivide land within Zone No 1 (a) or 1 (c) unless it has obtained all relevant information in relation to, and made an assessment of:

(a) the primary purpose for which each allotment to be created by the subdivision is intended to be used,

(b) whether any allotment to be created by the subdivision is intended to be used primarily for the purpose of agriculture, and

(c) whether a dwelling is intended to be erected on any allotment to be created by the subdivision and the approximate location of any such dwelling.

12 Subdivision of land generally

(1) This clause applies to all land to which this plan applies, other than land under the management and control of the Western Lands Commissioner.

(2) Except as provided by subclauses (3), (4), (5) and (6), the Council may consent to the creation of an allotment of any area for any purpose.

(3) The Council shall not consent to the creation of an allotment for the purposes of agriculture where the allotment has an area of less than 600 hectares and there is a dwelling-house on the allotment, unless the dwelling-house was lawfully erected on that land on or before the appointed day.

(4) The Council may consent to the creation of an allotment for the purposes of a dwelling-house from an existing holding within Zone No 1 (a) only if the allotment:

(a) has an area of not less than 1 hectare and not more than 5 hectares,

(b) forms part of an existing holding,

(c) 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 the extraction of proven or potential deposits of minerals, and

- (d) does not comprise prime crop and pasture land.
- (5) The total number of allotments of the type referred to in subclause (4) that may be created by subdivision of an existing holding in accordance with that subclause shall not exceed:
- (a) nil, where the existing holding is less than 200 hectares,
 - (b) one, where the existing holding has an area of not less than 200 hectares but less than 400 hectares,
 - (c) 2, where the existing holding has an area of not less than 400 hectares but less than 600 hectares, and
 - (d) 4, where the existing holding has an area of 600 hectares or more.
- (6) The Council may consent to an application to subdivide land within Zone No 1 (c) provided each allotment to be created for the purpose of a dwelling-house has an area of 0.4 hectare or more.

13 Dwellings in Zone No 1 (a)

- (1) The Council shall not consent to the erection of a dwelling-house on vacant land within Zone No 1 (a) unless:
- (a) the land has an area of 600 hectares or more, or
 - (b) the land comprises:
 - (i) an existing holding,
 - (ii) an allotment created under this plan for a purpose other than agriculture,
 - (iii) an allotment created in accordance with a consent granted before the appointed day, being an allotment on which a dwelling-house could have been erected immediately before the appointed day, or
 - (iv) an allotment under the management and control of the Western Lands Commissioner.
- (2) (Repealed)
- (3) In this clause, **vacant land** means land on which no dwelling-house is erected.

14 Dwellings in Zone No 1 (c)

The Council shall not consent to the erection of a dwelling-house on land within Zone No 1

(c) unless:

(a) the land has an area of 0.4 hectares or more, and

(b) the dwelling-house is 150 metres or more from any land within Zone No 1 (a) not being a public road.

15 Dwellings in Zone No 2 (a) or 2 (v) on unsewered land

The Council shall not grant consent to the erection of a dwelling-house on land which is unsewered within Zone No 2 (a) or 2 (v), unless it is satisfied that the land is suitable for the disposal of effluent arising from the use of the land.

16 Erection of additional dwellings

(1) The Council may consent to the erection of not more than 2 additional dwellings on land within Zone No 1 (a), 1 (c), 2 (a) or 2 (v) (including the alteration of an existing dwelling to create 2 dwellings) where:

(a) a dwelling-house could be erected on the land in accordance with:

(i) clause 13 where the land is within Zone No 1 (a),

(ii) clause 14 where the land is within Zone No 1 (c), or

(iii) clause 15 where the land is within Zone No 2 (a) or 2 (v),

(b) no additional access to a public road is required from the land,

(c) separate ownership of the proposed dwelling could only be achieved by a subdivision of the land, and

(d) in the opinion of the Council, the dwelling to be erected or created on the land will not interfere with the purpose for which the land is being used.

(2) The Council shall not consent to the subdivision of land on which an additional dwelling is erected in pursuance of this clause except under this plan.

17 Advertisements

(1) Except as provided by subclause (2), the Council shall not consent to an application to display an advertisement in Zone No 1 (a), 1 (c) or 2 (a) unless the Council is satisfied that:

(a) the advertisement is necessary to direct the travelling public to:

(i) places of scientific, historical, social, scenic or local interest, or

(ii) services or amenities necessary to meet the needs of the travelling public, and

(b) the size, dimensions and appearance to the advertisement would not interfere

with the existing or likely future amenity of the neighbourhood.

- (2) Nothing in this plan prohibits or requires the consent of the Council for the erection of an advertisement, an advertising structure or any other display sign being:
- (a) a sign erected by or on behalf of a public authority for the purposes of providing information to the public,
 - (b) a shop window display, or
 - (c) a commercial sign or temporary advertisement within the meaning of *Ordinance No 55* under the *Local Government Act 1919*.

18 Applications which must be advertised

The provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of development for the purposes specified in Schedule 2 in the same way as those provisions apply to and in respect of designed development.

19 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 design of the access to the proposed development,
 - (ii) the emission of smoke or dust from the proposed development, and
 - (iii) the nature, volume or frequency of vehicles that will use 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 3 if the development of the land for the purpose will have direct access to:
- (a) an arterial road, or
 - (b) a road connecting with an arterial road, and the access to the connecting road is within 90 metres (measured along the road alignment of the connecting road) of the alignment of the arterial road.

20 Environmentally sensitive land

- (1) This clause applies to environmentally sensitive land, other than land under the

management and control of the Western Lands Commissioner.

- (2) A person shall not carry out development on environmentally sensitive land for the purpose of:
- (a) intensive livestock keeping establishments,
 - (b) junk yards,
 - (c) liquid fuel depots,
 - (d) offensive or hazardous industries,
 - (e) sawmills, or
 - (f) stock and sales yards.
- (3) A person shall not clear more than one hectare of environmentally sensitive land of an existing holding, except with the consent of the Council.
- (4) The Council shall not consent to an application made for the purposes of subclause (3) unless, in the opinion of the Council, the clearing of 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,
 - (b) the loss of scenic amenity, and
 - (c) the loss of important vegetation systems and natural wildlife habitats.
- (5) The consent of the Council is not required to:
- (a) clear land, as may be reasonably necessary, for carrying out development for the purposes of:
 - (i) a fence, being a fence of a permanent nature,
 - (ii) an access trail,
 - (iii) a cut line for stock movement,
 - (iv) a fire break,
 - (v) a road,
 - (vi) a telephone, power, gas or water line, or
 - (vii) a drain to a dam, a bore drain or an irrigation channel,
 - (b) lop trees to provide stock feed in times of drought, provided that the method and extent of the lopping ensures the continued survival and health of the trees,

- (c) clear the regrowth of the trees which are less than 3 metres in height on any land which:
 - (i) was lawfully cleared before the appointed day, or
 - (ii) has been cleared in compliance with this clause,
 - (d) prune trees for the purpose of their regeneration or ornamental shaping,
 - (e) remove trees which are dying or dead, or
 - (f) burn undergrowth for the purposes of rangeland management.
- (6) Nothing in this clause operates so as to permit:
- (a) any clearing in a State forest, timber reserve or flora reserve under the *Forestry Act 1916*,
 - (b) clearing in contravention of section 21C of the *Soil Conservation Act 1938*, or
 - (c) clearing in contravention of conditions applying to any Western Lands Lease.

21 Flood liable land

Notwithstanding any other provision of this plan, a person shall not erect a dwelling-house or do any work for any purpose on flood liable land except with the consent of the Council.

22 Heritage items

- (1) A person shall not, in respect of a building, work, relic, tree or place that is a heritage item:
- (a) demolish or alter the building or work,
 - (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, or
 - (f) damage any tree on land on which the building, work or relic is situated or on the land which comprises the place,
- except with the consent of the Council.
- (2) The Council shall not grant consent to an application referred to in 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 horticultural feature of its setting.

- (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.

23 Development in vicinity of heritage items

The Council shall not grant consent to a development 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 item and its setting.

24 Heritage advertisements and notifications

- (1) Except as provided by this clause, the provisions of sections 84, 85, 86, 87 (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 25 for the 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) The Council may not grant consent to an application to demolish a heritage item unless:

- (a) the Council has notified the Heritage Council of its intention to grant the consent, and

- (b) the Heritage Council has no objection to the granting of consent.

- (3) The Heritage Council is to be taken as having no objection unless it notifies the Council of its objection not later than 28 days after being notified of the Council's intention to grant consent.

- (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 in relation to the environmental heritage of the Shire of Bogan.

25 Conservation incentives

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

- (a) 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:

- (b) the proposed use would have little or no adverse effect on the amenity of the area, and
- (c) the conservation of the building depends on the Council granting consent under this clause.

(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 purposes of determining the floor space ratio, and
- (b) for the purposes of determining the number of parking spaces to be provided on the site, exclude from its calculation of the floor space of the buildings erected on the land, the floor space of the item, but only if the Council is satisfied that the conservation of the building depends on the Council granting an exclusion under this clause.

26 Access

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

27 Development in the vicinity of an aerodrome

(1) A person shall not on land identified in the Height Limitation Zone Plan, held in the office of the Council:

(a) carry out development for the purposes of:

- (i) a dam,
- (ii) a reservoir,
- (iii) the storage of grain, or
- (iv) the disposal of refuse, or

(b) erect a building of a height greater than that shown on that plan,

except with the consent of the Council.

(2) The Council shall not grant consent to an application to erect a building referred to in subclause (1) unless it is satisfied, after consultation with the Regional Director of the Commonwealth Department of Aviation, that the building will not constitute an obstruction, hazard or potential hazard to aircraft flying in the vicinity.

28 Development on land in Zone No 6 (a)

The Council shall not consent to the carrying out of development of land within Zone No 6 (a), being land owned or controlled by the Council, unless consideration has been given to:

- (a) the need for the proposed development on that land,
- (b) the impact of the proposed development on the existing or likely future use of the land, and
- (c) the need to retain the land for its existing or likely future use.

29 Development along the Bogan River

(1) Notwithstanding any other provision of this plan, a person shall not:

- (a) on land within Zone No 1 (a) or 1 (c) within 400 metres of any bank of the Bogan River, erect a building for any purpose,
- (b) on land within 60 metres of any bank of the Bogan River, cause destruction to any tree,
- (c) on land within 20 metres of any bank of the Bogan River, carry out development for any purpose, or
- (d) on land comprising the bed or any bank of the Bogan River, carry out development for the purposes of:
 - (i) a canal, or
 - (ii) a marina (including pontoons, jetties, piers or other structures) designed to provide mooring or dry storage for one or more vessels used for any purpose,

except with the consent of the Council.

(2) The Council shall not consent to an application to erect a building on land comprising:

- (a) the bed of the Bogan River, or
- (b) land within Zone No 1 (a) or 1 (c) and being within 100 metres of any bank of the Bogan River,

unless, in the opinion of the Council, the building:

- (i) is ancillary to the use of that land for the purpose of a recreation area or rural production, or
- (ii) is for the purposes of fisheries, irrigation works (including the pumping and treatment of water for private domestic consumption), marinas, utility installations

or the servicing of vessels or sea planes.

(3) The Council shall not grant its consent as referred to in subclause (1) unless, in the opinion of the Council, the destruction of the trees or the development of the land (including subdivision of land) will be carried out in a manner which, in respect of that land and the adjacent land, minimises:

- (a) the risk of soil erosion or other land degradation,
- (b) the loss of scenic amenity, and
- (c) loss of important vegetation systems and natural wildlife habitats.

30 Classification and reclassification of public land as operational land

The public land shown edged heavy black and hatched on the maps marked as follows is classified, or reclassified, as operational land for the purposes of the [Local Government Act 1993](#):

Bogan Local Environmental Plan 1991 (Amendment No 2)

31 Car repair station—Nymagee Street, Nyngan

- (1) This clause applies to Lot 42, Section 20 DP 710750, Nymagee Street, Nyngan as shown edged heavy black on the map marked “*Bogan Local Environmental Plan 1991 (Amendment No 4)*”.
- (2) Despite any other provision in this plan, a person may, with the consent of the Council, carry out development of the land to which this clause applies for the purpose of a car repair station.

Schedule 1 Heritage items

(Clause 5 (1))

<u>Item</u>	<u>Address/Location</u>
Nyngan Railway Station	Pangee Street, Nyngan
Overhead footbridge and goods shed	Pangee Street, Nyngan

Schedule 2 Development which must be advertised

(Clause 18)

- 1 The demolition of a building or work that is a heritage item, not being a 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.
- 2 Boarding-houses; hotels; motels; residential flat buildings.

3 Industries (other than home industries or industries in Zone No 4).

4 Intensive livestock keeping establishments; junk yards; liquid fuel depots; saw-mills; stock and sales yards; transport terminals.

Schedule 3 Development limited along arterial roads

(Clause 19 (2))

1 bulk stores

2 caravan parks

3 car repair stations

4 clubs

5 commercial premises

6 education establishments

7 hospitals

8 hotels

9 industries (other than home or rural industries)

10 institutions

11 junk yards

12 liquid fuel depots

13 mines

14 motels

15 places of public assembly

16 places of public worship

17 recreation establishments

18 recreation facilities

19 refreshment rooms

20 retail plant nurseries

21 roadside stalls

22 saw mills

23 service stations

24 stock and sales yards

25 transport terminals

26 warehouses