

# Wagga Wagga Rural Local Environmental Plan 1991

[1991-4]



New South Wales

## Status Information

### Currency of version

Historical version for 24 March 2000 to 30 January 2003 (accessed 20 December 2024 at 15:55)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 24 March 2000

# Wagga Wagga Rural Local Environmental Plan 1991



New South Wales

## Contents

<b>Part 1 Preliminary</b> .....	4
1 Name of plan .....	4
2 Aims, objectives etc.....	4
3 Land to which plan applies .....	5
4 Relationship to other environmental planning instruments .....	5
5 Interpretation .....	6
6 Adoption of model provisions .....	9
7 Consent authority .....	9
<b>Part 2 General restrictions on development of land</b> .....	9
8 Zones indicated on the map .....	9
9 Zone objectives and development control table.....	9
<b>Part 3 Special provisions</b> .....	12
10 General considerations for development within rural zone .....	12
11 Subdivision of land generally.....	12
12 Subdivision for the purposes of agriculture in Zone No 1 .....	13
13 Subdivision for the purposes of dwellings in Zone No 1 .....	13
14 Subdivision for other purposes in Zone No 1 .....	14
15 Subdivision for the purposes of the creation of rural small holdings .....	14
16 Subdivision of land in Zone No 2 .....	16
17 Dwellings in Zone No 1—vacant land .....	16
18 Creation of additional dwellings in Zone No 1 .....	16

19 Applications that must be advertised .....	17
20 Development along arterial roads .....	17
21 Environmentally sensitive land.....	18
22 Flooding.....	18
23 Land subject to bushfire hazards.....	19
24 Items of the environmental heritage .....	19
25 Development in the vicinity of an item of the environmental heritage .....	20
26 Heritage Council to be given prior notice of demolition consent.....	20
27 Conservation incentives relating to items of the environmental heritage .....	20
28 Access .....	20
29 Suspension of certain covenants etc .....	20
30 Development in the vicinity of licensed aerodromes.....	21
31 Development in the vicinity of the Gregadoo Waste Disposal Facility .....	21
32 What is exempt and complying development?.....	21

# Wagga Wagga Rural Local Environmental Plan 1991



New South Wales

## Part 1 Preliminary

### 1 Name of plan

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

### 2 Aims, objectives etc

The general aims of the plan are:

- (a) to encourage the proper management, development and conservation of natural and man-made resources within the area to which this plan applies by protecting, enhancing or conserving:
  - (i) prime crop and pasture land,
  - (ii) timber, minerals, soil, water and other natural resources,
  - (iii) localities of significance for nature conservation,
  - (iv) localities of high scenic or recreational value, and
  - (v) places and buildings of archaeological or heritage significance, including Aboriginal relics and places,
- (b) to replace the existing planning controls with a single local environmental plan to help facilitate growth and development of the land to which this plan applies in a manner which is consistent with the aims specified in paragraph (a) and which:
  - (i) minimises the costs to the community of fragmented and isolated development of rural land,
  - (ii) facilitates the efficient and effective provision 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,
- (c) to simplify the general restrictions on development by reducing the number of zones into which land is divided,
- (d) to give the Council greater responsibility for environmental planning by creating a broad framework of controls and to create opportunity for the more detailed provisions relating to matters of significance only for local environmental planning to be contained in development control plans made by the Council,
- (e) to speed up the planning process,
- (f) to maintain the opportunity for public involvement and participation in the environmental planning and assessment process,
- (g) to ensure that the plan is complementary to [Wagga Wagga Local Environmental Plan 1985](#), and
- (h) to reduce the incidence of damage to localities subject to flooding by restricting development in the flood plain and in the floodways.

### **3 Land to which plan applies**

This plan applies to the land within the City of Wagga Wagga as shown by a firm black line on the map.

### **4 Relationship to other environmental planning instruments**

This plan repeals the following environmental planning instruments:

- (a) *Interim Development Order No 1—Shire of Kyeamba*,
- (b) *Interim Development Order No 2—Shire of Kyeamba*,
- (c) *Interim Development Order No 4—Shire of Kyeamba*,
- (d) *Kyeamba Planning Scheme Ordinance*,
- (e) *Interim Development Order No 1—Shire of Mitchell*,
- (f) Wagga Wagga Local Environmental Plans Nos 2, 15, 16, 19, 20, 27 and 28, and
- (g) such other deemed environmental planning instruments and local environmental plans as, immediately before the appointed day, applied to the land to which this plan applies, to the extent to which those instruments and plans applied to that land.

## 5 Interpretation

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

**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.

**appointed day** means 1 November 1986.

**arterial road** means an existing road as indicated on the map.

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

**Council** means the Council of the City of Wagga Wagga.

**demolition**, in relation to an item of the environmental heritage, means the damaging, defacing, destruction, pulling down or removal of that item, in whole or in part.

**dual occupancy building** means a building containing 2 dwellings.

**environmentally sensitive land** means land shown cross hatched with black lines on the map.

**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 1 November 1986, or
- (b) where, as at 1 November 1986, a person owned 2 or more adjoining or adjacent lots, portions or parcels of land, the combined area of these lots, portions or parcels as they were as at 1 November 1986.

**flood plain** means the land shown diagonally hatched with black lines on the map, generally indicating the land flooded in the 1974 floods.

**floodway** means the land within the flood plain determined by the Council, in consultation with the Department of Water Resources, as essential to the clear passage of floodwater.

**intensive agricultural pursuit** means market gardening, mushroom growing, fruit growing, flower growing, intensive livestock keeping and similar activities.

**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) feed lots,
- (b) piggeries,
- (c) poultry farms, and
- (d) fish farms (including farms cultivating crustaceans and oysters),

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 the supplementary or drought feeding of livestock.

**item of the environmental heritage** means a building, work, relic or place of historic, scientific, cultural, social, architectural, archaeological, natural or aesthetic significance to the City of Wagga Wagga as described in a development control plan.

**land degradation** means the decline in quality of natural land resources commonly caused through improper use of land by humans. It encompasses soil degradation and the deterioration of natural landscapes and vegetation. It includes the adverse effects of overgrazing, excessive cultivation, overclearing, erosion, sediment deposition, extractive industries, urbanisation, disposal of industrial wastes, road construction, decline in plant communities and the effect on land on noxious plants and animals.

**prime crop and pasture land** means land within an area identified, on a map prepared by or on behalf of the Director-General of the Department of Agriculture and Fisheries and deposited in an office of the Department of Agriculture and Fisheries (and a copy of which is deposited in the office of the Council), as Class 1, Class 2 or Class 3 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 has notified 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 promoting the physical, cultural or intellectual welfare of persons within the community,

but does not include a racecourse or a showground.

**relic** has the meanings ascribed to it in section 4 (1) of the *Heritage Act 1977* and in the *National Parks and Wildlife Act 1974*, but only insofar as it relates to the area of the Council.

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

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

**rural small holding** means an allotment of land having an area of less than 200 hectares and not less than 0.6 hectares on which it is intended to erect a dwelling-house or dual occupancy building or on which a dwelling-house or dual occupancy building is erected.

**soil degradation** includes loss of organic matter, decline in soil nutrient level or structure, erosion, adverse changes in salinity, acidity or alkalinity and the effects of toxic chemicals, pollutants and excessive flooding.

**the map** means the map marked “*Wagga Wagga Rural Local Environmental Plan 1991*”, as amended by the maps (or, if any sheets of maps are specified, by the specified sheets of the maps) marked as follows:

*Wagga Wagga Rural Local Environmental Plan 1991 (Amendment No 1)*

**tree** includes a sapling and a shrub.

- (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.
- (4) To the extent that a provision of this plan requires, in relation to land within a specified zone, that a development application for subdivision of any such land disclose the primary purpose for which an allotment to be created by the subdivision is intended to be used, a reference in any subsequent provision of this plan to the purpose for which the allotment is to be used is a reference to the purpose so



disclosed.

## **6 Adoption of model provisions**

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

- (a) the definitions of **arterial road** and **map** in clause 4 (1), and
  - (b) clauses 15, 16, 19, 20, 21, 22 and 23,
- are adopted for the purpose of this plan.

## **7 Consent authority**

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

## **Part 2 General restrictions on development of land**

### **8 Zones indicated on the map**

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

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

Zone No 2 (Village)—edged heavy black and lettered “2”.

### **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 (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 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 in environmentally sensitive localities 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) localities of significance for nature conservation, including localities with rare plants, wetlands and significant wildlife habitat, and
  - (viii) places and buildings of archaeological or heritage significance, including Aboriginal relics and places,
- (b) preventing the unjustified development of prime crop and pasture land for purposes other than agriculture,
- (c) ensuring that any allotment created for intensive agricultural pursuits is potentially and physically capable, on its own, of sustaining a range of such pursuits or other agricultural purposes as a commercial agricultural operation suitable to the locality,
- (d) facilitating farm adjustments,

- (e) 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
- (f) 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,
- (g) providing for a range of rural living styles in appropriate locations within the area to which the plan applies, and
- (h) encouraging the establishment of rural industries within the area to which the plan applies.

## **2 Without development consent**

Agriculture (other than ancillary dwellings and intensive livestock keeping establishments); forestry (other than ancillary dwellings and pine plantations).

## **3 Only with development consent**

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

## **4 Prohibited**

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

## **Zone No 2 (Village)**

### **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.

### **2 Without development consent**

Nil.

### **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.

## **Part 3 Special provisions**

### **10 General considerations for development within rural zone**

- (1) The Council shall not consent to an application to carry out development on land within Zone No 1 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 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), water resources (including the quality and stability of water courses and ground water storage and riparian rights),
  - (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, and
  - (f) future expansion of settlements in the locality.
- (2) As well as the matters referred to in subclause (1), the Council shall take into consideration the relationship of the development to development on adjoining land or on other land in the locality.
- (3) Subclause (1) does not apply to 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.

### **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) A person who makes an application for development consent to subdivide land within Zone No 1 shall, on the application form:
  - (a) state, in relation to each allotment to be created by the subdivision, the primary purpose for which that allotment is intended to be used,
  - (b) identify any allotment which is intended to be used primarily for the purposes of agriculture,
  - (c) identify any allotment which is intended to be used primarily for the purposes of a rural small holding,
  - (d) identify any allotment on which it is intended to erect a dwelling and state whether or not the dwelling is the primary purpose for which the allotment is being created, and
  - (e) show the approximate location of any dwelling erected on the land at the date of the application.
- (3) The Council shall not consent to an application for development consent to subdivide land within Zone No 1 unless the application form appears to have been completed in accordance with subclause (2).

## **12 Subdivision for the purposes of agriculture in Zone No 1**

- (1) A person may, with the consent of the Council, subdivide an allotment of any area if every allotment to be created by the subdivision is intended to be used for the purposes of agriculture.
- (2) The Council shall not consent to the creation of an allotment intended to be used for the purposes of agriculture if the allotment has an area of less than 200 hectares and there is a dwelling on the allotment unless the Council is satisfied that the allotment is to be used in conjunction with an existing holding used for the purposes of agriculture and the combined area will exceed 200 hectares.
- (3) Notwithstanding subclause (2), the Council may consent to the creation of one (but not more than one) allotment intended to be used for the purposes of agriculture from an existing holding on which a dwelling stands if that dwelling was lawfully erected on that land on or before the appointed day.

## **13 Subdivision for the purposes of dwellings in Zone No 1**

The Council may consent to a development application to subdivide an existing holding within Zone No 1 if not more than 2 of the allotments to be created by the subdivision are intended to be used for the purpose of a dwelling-house, but only if each new allotment to be created:

- (a) has an area of not less than 0.6 hectares and not more than 5 hectares,

- (b) forms part of an existing holding which has an area of not less than 200 hectares,
- (c) 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
- (d) does not comprise prime crop and pasture land.

#### **14 Subdivision for other purposes in Zone No 1**

- (1) Subject to subclause (2), the Council shall not consent to a development application to subdivide land within Zone No 1 if any allotment to be created by the subdivision is intended to be used primarily for purposes other than agriculture or a dwelling, unless, in the opinion of Council:
  - (a) none of the land the subject of the application 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 a development application to subdivide land to create an allotment intended to be used for a purpose other than agriculture or a dwelling 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,
  - (b) no other land in the locality could reasonably be used for that purpose, and
  - (c) the level of demand for the goods or services which are to be supplied from the allotment and the extent to which the allotment is proposed to be used to meet that demand justifies the creation of the allotment notwithstanding its agricultural value.

#### **15 Subdivision for the purposes of the creation of rural small holdings**

- (1) The Council shall not consent to a development application to subdivide land within Zone No 1 to create a rural small holding if the land the subject of the application:
  - (a) comprises the whole or part of an existing holding having an area of less than 200 hectares, or
  - (b) is an allotment created in accordance with this plan for the purpose of agriculture.
- (2) Before determining the number, size and arrangement of rural small holdings that may be created, the Council shall, in addition to matters referred to in any other provisions of this plan, take into account:
  - (a) the quality of the land and the effect of subdivision on the existing and potential

- agricultural productivity of the land the subject of the application,
- (b) the impact on existing and potential agricultural productivity in the locality,
  - (c) the supply of, and demand for, rural small holdings of the type proposed,
  - (d) the physical characteristics of the land including drainage patterns, erosion, geological hazards and landscape features,
  - (e) whether approval of the subdivision and any subsequent development will create demands for the provision or extension of services provided by the Council or other public authorities,
  - (f) hazards such as bushfires and flooding,
  - (g) whether subdivision will prejudice the orderly expansion of urban areas,
  - (h) the prevailing subdivision and holding pattern in the locality, and
  - (i) whether the land contains recoverable minerals or extractive materials.
- (3) In determining the quality of the land for the purposes of subclause (2) (a), the Council shall have regard to the map prepared by or on behalf of the Director-General of the Department of Agriculture and Fisheries and marked "*Agricultural Land Classification Map—City of Wagga Wagga*" deposited in an office of the Department of Agriculture and Fisheries (and a copy of which is deposited in the office of the Council).
- (4) Where a person proposes to subdivide land to create a rural small holding and the land the subject of the application is identified on the maps referred to in subclause (3) as comprising a combination of classes 1, 2, 3, 4 and 5, the Council shall not consent to the subdivision of that part of the land identified as class 1, 2 or 3 unless:
- (a) it is satisfied, having regard to the matters listed in subclause (2), that the class 4 or 5 land is unsuitable for the purposes of rural small holdings,
  - (b) it has consulted, and taken into account the views of, the Director-General of the Department of Agriculture and Fisheries, and
  - (c) the class 1, 2 or 3 land does not comprise more than 5 per cent of the land to be subdivided for rural small holdings.
- (5) Notwithstanding the provisions of subclauses (1) (a) and (4), the Council may consent to an application to subdivide the whole or part of an existing holding having an area of less than 200 hectares if:
- (a) the Council considers that the land is suitable for the purposes of rural small holdings having regard to the matters listed in subclause (2), and

- (b) the Council has consulted, and taken into account the views of, the Director-General of the Department of Agriculture and Fisheries.

#### **16 Subdivision of land in Zone No 2**

The Council shall not consent to a development application to subdivide land within Zone No 2 for the purpose of a dwelling-house unless each allotment to be created by the subdivision has an area and frontage which, in the opinion of the Council, is appropriate for that purpose having regard to:

- (a) the nature and topography of the land to be subdivided in relation to the number of the allotments proposed to be created,
- (b) the desirability of providing a range and mixture of allotment sizes,
- (c) whether the design of each allotment to be created by the subdivision is satisfactory for the economic provision of services,
- (d) provision for the on-site disposal of wastes, and
- (e) the impact of the subdivision on the future development of the village.

#### **17 Dwellings in Zone No 1—vacant land**

(1) The Council shall not consent to an application to erect a dwelling on vacant land within Zone No 1 unless:

- (a) the land has an area of 200 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, or
  - (iii) 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.

(2) In this clause, **vacant land** means land on which no dwelling is erected.

#### **18 Creation of additional dwellings in Zone No 1**

- (1) A person may, with the consent of the Council, create not more than 2 additional dwellings on an allotment of land within Zone No 1 (whether by the erection of a new dwelling or the alteration of an existing dwelling to create 2 dwellings) if:
  - (a) a dwelling could be erected on the land in accordance with clause 17,
  - (b) no additional access to a public road is required from the land,



- (c) separate ownership of the proposed dwelling or dwellings could be achieved only by a subdivision of the land,
  - (d) in the opinion of the Council, the dwelling or dwellings to be created on the land will not interfere with the purpose for which the land is being used, and
  - (e) the land is not prime crop and pasture land unless, despite the land's being prime crop and pasture land, the creation of the additional dwelling or dwellings is justified in the opinion of the Council, having regard to the practical and economic provision of access and services to the proposed dwelling or dwellings.
- (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.
- (3) The Council shall not grant a consent pursuant to this clause that may result in the existence on a piece or parcel of land of more than 2 dwellings the creation of which was consented to pursuant to this clause.

#### **19 Applications that must be advertised**

- (1) 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 under the heading "Only with development consent" in the Table to clause 9 appearing in the matter relating to Zones Nos 1 and 2.
- (2) Subclause (1) does not apply to development which, in the opinion of the Council, satisfies the objectives specified under the heading "Objectives of zone" in clause 9 appearing in the matter relating to Zones Nos 1 and 2.

#### **20 Development along arterial roads**

The Council shall not grant 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 using the arterial road to gain access to the proposed development.

## 21 Environmentally sensitive land

- (1) A person shall not carry out development on environmentally sensitive land for the purposes of:
  - (a) intensive livestock keeping,
  - (b) junk yards,
  - (c) liquid fuel depots,
  - (d) offensive or hazardous industries,
  - (e) sawmills, or
  - (f) stock and sales yards.
- (2) A person shall not, except with the consent of the Council, cause the destruction of trees on environmentally sensitive land.
- (3) The Council shall not consent to an application made pursuant to 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, dry land salination or other land degradation,
  - (b) the loss of scenic amenity, and
  - (c) the loss of important vegetation systems and natural wildlife habitats.
- (4) Prior to granting consent to an application to carry out development on environmentally sensitive land, the Council must consult officers of the National Parks and Wildlife Service, the Soil Conservation Service of New South Wales, the Department of Agriculture and Fisheries, the Department of Water Resources and any other relevant government departments.
- (5) If environmentally sensitive land is also protected land under the [Soil Conservation Act 1938](#), then authority for the destruction or clearing of trees must also be obtained from the Catchment Areas Protection Board.

## 22 Flooding

- (1) A person shall not erect a building or carry out a work on the flood plain except with the consent of the Council.
- (2) The Council shall not consent to the erection of a building or the carrying out of a work on land within a floodway if, in the opinion of the Council, the carrying out of the development is likely:
  - (a) to impede the flow of flood waters on the land or land in its immediate vicinity,

- (b) to imperil the safety of persons on that land or land in its immediate vicinity in the event that flood waters inundate those lands,
- (c) to exacerbate the adverse effects of floodwaters flowing on the land or land in its immediate vicinity with regard to erosion, siltation and the destruction of vegetation, or
- (d) to have an adverse effect on the water table of the land or land in its immediate vicinity.

### **23 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,
- (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.

### **24 Items of the environmental heritage**

- (1) A person shall not, in respect of a building, work, relic or place that is an item of the environmental heritage:
  - (a) demolish, renovate or extend that building or work,
  - (b) damage or despoil that relic or place or any part of that relic or place,
  - (c) excavate any land for the purpose of exposing or removing that relic, or
  - (d) erect a building on the land on which that building, work or relic is situated or the land which comprises that place,except with the consent of the Council.
- (2) The Council shall not grant consent to a development application made in pursuance of subclause (1) unless it has made an assessment of:
  - (a) the significance of the item as an item of the environmental heritage of the City of Wagga Wagga,
  - (b) the extent to which the carrying out of the development in accordance with the consent would affect the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the item and its site,
  - (c) whether the setting of the item, and in particular, whether any stylistic,

horticultural or archaeological features of the setting should be retained, and

- (d) whether the item constitutes a danger to the users or occupiers of that item or to the public.

## **25 Development in the vicinity of an item of the environmental heritage**

The Council shall not grant consent to a development application to carry out development in the vicinity of the land on which an item of the environmental heritage is situated unless the Council has made an assessment of the effect which the carrying out of that development will have on the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the item of the environmental heritage and its settings.

## **26 Heritage Council to be given prior notice of demolition consent**

If a person makes a development application to demolish a building or work that is an item of the environmental heritage the Council shall not grant consent to that application until 28 days after the Council has notified the Secretary of the Heritage Council of its intention to do so.

## **27 Conservation incentives relating to items of the environmental heritage**

Nothing in this plan prevents the Council from granting consent to the use for any purpose of a building that is an item of the environmental heritage or of the land on which that building is erected if, in the opinion of the Council:

- (a) the use would have little or no adverse effect on the amenity of the locality, and
- (b) conservation of the building depends on the Council granting consent in pursuance of this subclause.

## **28 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.

## **29 Suspension of certain covenants etc**

- (1) For the purpose of enabling development to be carried out in accordance with this plan (as in force at the time the development is carried out) or in accordance with any consent granted under the Act, the operation of any covenant, agreement or instrument imposing restrictions on development, to the extent necessary to serve that purpose, is not to apply to the development.
- (2) Pursuant to section 28 of the Act, before the making of this clause the Governor approved of subclause (1).

### **30 Development in the vicinity of licensed aerodromes**

- (1) The Council shall not grant consent to a development application to carry out development in the vicinity of the land on which any licensed aerodrome is situated unless the Council has made an assessment of the effect which the carrying out of that development will have on the continued operation of the aerodrome.
- (2) In this clause, **licensed aerodrome** has the same meaning as in Regulation 89 of the *Civil Aviation Regulations* of the Commonwealth.

### **31 Development in the vicinity of the Gregadoo Waste Disposal Facility**

The Council shall not grant consent to a development application to carry out development in the vicinity of the land on which the Gregadoo Waste Disposal Facility is situated unless the Council has made an assessment of the effect which the carrying out of that development will have on the continued operation of the waste disposal facility.

### **32 What is exempt and complying development?**

- (1) Development of minimal environmental impact listed as exempt development in *Wagga Wagga Development Control Plan No 8* as adopted by Council on 22 November 1999 is **exempt development** and may be carried out without development consent, despite any other provision of this plan.
- (2) Development listed as complying development in *Wagga Wagga Development Control Plan No 10* as adopted by Council on 22 November 1999 is **complying development** if:
  - (a) it is local development of a kind that can be carried out with consent on the land on which it is proposed, and
  - (b) it is not an existing use, as defined in section 106 of the Act.
- (3) Development is exempt development only if it complies with the development standards and other requirements applied to the development by *Wagga Wagga Development Control Plan No 8* as adopted by the Council on 22 November 1999.
- (4) Development is complying development only if it complies with the development standards and other requirements applied to the development by *Wagga Wagga Development Control Plan No 10* as adopted by the Council on 22 November 1999.
- (5) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in *Wagga Wagga Development Control Plan No 10* adopted by Council, as in force when the certificate is issued.