

Jerilderie Local Environmental Plan 1993

[1993-447]



New South Wales

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New South Wales

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Jerilderie Local Environmental Plan 1993



New South Wales

Part 1 Preliminary

1 Name of plan

This plan may be cited as *Jerilderie Local Environmental Plan 1993*.

2 Aims, objectives etc

The general aims of this plan are:

- (a) to encourage the proper management, development and conservation of natural and man-made resources within the Jerilderie Area by protecting, enhancing and 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,
 - (v) places and buildings of archaeological or heritage significance, including aboriginal relics and places,
 - (vi) the bed and banks of the Yanko and Billabong Creeks, and
 - (vii) waterways and associated wetlands for their fish and fish habitat values, and
- (b) to replace the existing planning controls with a single local environmental plan to help facilitate growth and development of the Jerilderie Area in a manner which is consistent with the aims specified in paragraph (a) and which:
 - (i) minimises the cost 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,
- (v) ensures that the efficiency of arterial roads is not adversely affected by development on adjacent land, and
- (vi) provides for orderly development of tourist activities.

3 Land to which plan applies

This plan applies to all land within the Jerilderie Area as shown on the map, with the boundaries as indicated on the map.

4 Relationship to other environmental planning instruments

This plan repeals:

- (a) *Interim Development Order No 1—Shire of Jerilderie*, and
- (b) such local environmental plans and other deemed environmental planning instruments as, immediately before the appointed day, applied to the land to which this plan applies, but only to the extent to which they so applied.

5 Definitions

(1) In this plan:

aboriginal relic means a relic as defined in the *National Parks and Wildlife Act of 1974*.

alter, in relation to a heritage item, means:

- (a) make structural changes to the outside of the heritage item, or
- (b) make non-structural changes to the detail, fabric, finish or appearance of the outside of the heritage item other than changes that maintain the existing detail, fabric, finish or appearance of the outside of the heritage item.

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 the day upon which this plan takes effect.

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

bank means the limit of the bed of a river.

bed, in relation to a river, means the whole of the soil of the channel in which the

river flows, including the portion which is alternatively covered and left bare as there may be an increase or diminution in the supply of water and which is adequate to contain it at its average or mean stage without reference to extraordinary freshets in the time of flood or to extreme drought.

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.

Council means the Jerilderie Council.

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 shown horizontally 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 at the appointed day, or
- (b) where, as at the appointed day, a person owned 2 or more adjoining or adjacent lots, portions or parcels of land—the aggregation of those lots, portions or parcels as they were on that day.

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

heritage item means a building, work, relic, tree or place of heritage significance to the Jerilderie Area listed in Schedule 1.

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

horticulture means fruit farming and vegetable farming, and includes plant propagation, plant breeding, ornamental floriculture, landscape horticulture and turf farming.

integrated housing development means development that consists of:

- (a) the subdivision of land into 5 or more allotments, and
- (b) the erection of a single dwelling-house on each of the allotments created by that subdivision.

intensive livestock keeping establishment means a building or place in which or on which cattle, sheep, goats, dogs, cats, poultry or other livestock are held for the purposes of breeding, boarding or 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 or 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, and does not include short term feeding or feedlots operated during periods of declared drought, or at times of other natural disasters such as fire or flood.

Jerilderie Area means the local government area of Jerilderie.

large villa unit means a villa unit which has a gross floor area of more than 85 square metres.

medium villa unit means a villa unit which has a gross floor area of not less than 55 square metres and not more than 85 square metres.

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 deposited in an office of the Department of Agriculture (and a copy of which is deposited in the office of the Council), as Class 1, Class 2 or Class 3 land, or as land of merit for special agricultural uses, but does not include land which the Director-General 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 means any deposit, object or material evidence relating to the settlement (not including aboriginal habitation) of Jerilderie Area which is 50 or more years old.

river means the Yanko and Billabong Creeks.

small villa unit means a villa unit which has a gross floor area of less than 55 square metres.

the map means the map marked “*Jerilderie Local Environmental Plan 1993*”, as amended by the maps marked as follows:

Jerilderie Local Environmental Plan 1993 (Amendment No 1)

tree includes a sapling, shrub and scrub but does not include regrowth of eucalyptus *camaldulensis* where that regrowth is less than 1.5 metres in height.

villa unit means a dwelling within a single storey building which has within its curtilage pedestrian access and open space at ground level for the exclusive use of the occupants of the dwelling.

wetland means land which forms a shallow water body when inundated cyclically, intermittently or permanently, being such inundation which determines the type and productivity of soils and the plant and animals communities.

- (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 building or place used for a purpose includes a reference to a building or place intended to be used for a purpose,
 - (b) a reference to a map or a copy of a map is a reference to a map or copy of a map deposited in the office of the Council, 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 so specified.

6 Adoption of model provisions

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

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

are adopted for the purposes of 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 Zone)—edged heavy black and lettered “1 (a)”.

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

Zone No 1 (d) (Future Urban Zone)—edged heavy black and lettered “1 (d)”.

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

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

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.

Zone No 1 (a) (General Rural Zone)

1 Objectives of zone

The objective of this zone is 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 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) areas of significance for nature conservation, including areas with rare plants, wetlands and significant wildlife 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 future rural residential development and for future development for other non-agricultural purposes, in accordance with the need for that development.

2 Without development consent

Agriculture (other than ancillary dwellings, intensive livestock keeping establishments and animal boarding or training 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

Integrated housing development; 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 objective of this zone is to promote development of land identified as suitable for:

- (a) rural residential or hobby farm development,
- (b) a range of industrial, storage or intensive livestock keeping purposes which are compatible with the environmental capabilities of the land and which are unlikely to affect land or development in the vicinity adversely, or
- (c) the creation of small holdings to allow an attractive rural lifestyle on land that lacks commercial agricultural potential.

2 Without development consent

Agriculture (other than ancillary dwellings, animal boarding or training establishments and intensive livestock keeping establishments).

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; hotels; integrated housing development; motels; motor showrooms; refreshment rooms; residential flat buildings; shops (other than general stores not exceeding 100 square metres in gross floor area); villa units.

Zone 1 (d) (Future Urban Zone)

1 Objectives of zone

The objectives of this zone are to identify land suitable for future urban use and to prevent premature development which constrains future land use options.

2 Without development consent

Agriculture (other than animal boarding or training establishments and intensive livestock keeping establishments).

3 Only with development consent

Dwelling-houses and buildings ancillary to agriculture; forestry; home industries; open space; retail plant nurseries; rural industries; utility installations (other than gas holders or generating works).

4 Prohibited

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

Zone No 1 (f) (Rural (Forests) Zone)

1 Objectives of zone

The objective of this zone is to permit the continuation and expansion of forestry and development for associated purposes.

2 Without development consent

Agriculture (other than ancillary dwellings, animal boarding or training establishments and intensive livestock keeping establishments); forestry.

3 Only with development consent

Nil.

4 Prohibited

Any purpose other than a purpose included in item 2.

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 urban function.

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose included in item 4.

4 Prohibited

Extractive industries; integrated housing development; intensive livestock keeping establishments; mines; offensive and hazardous industries.

Part 3 Special provisions

9A What is exempt development and complying development?

- (1) Development of minimal environmental impact listed as exempt development in Schedule 1 to *Jerilderie Development Control Plan No 8—Exempt and Complying Development* as adopted by the Council on 25 January 2000 is **exempt development**, despite any other provision of this plan.
- (2) Development listed as complying development in Schedule 2 to *Jerilderie Development Control Plan No 8—Exempt and Complying Development* as adopted by the Council on 25 January 2000 is **complying development** only 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 or complying development only if it complies with development standards and other requirements applied to the development by *Jerilderie Development Control Plan No 8—Exempt and Complying Development* as adopted by the Council on the 25 January 2000.
- (4) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in *Jerilderie Development Control Plan No 8—Exempt and Complying Development* adopted by the Council, as in force when the certificate is issued.

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) or 1 (d) 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) and water resources (including the quality and stability of water course 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 areas considered to be prospective for these materials,
- (d) the protection of areas 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) future expansion of settlements in the locality, and
- (g) where the land is within Zone No 1 (a) and within 400 metres of the bank of a river, the effect of the development on the riparian lands of the river.

(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 or without 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 purposes 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) A person who makes an application to subdivide land within Zone No 1 (a), 1 (c) or 1 (d) shall, before consent is given to the subdivision:

- (a) state, in relation to each allotment 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 dwelling-house,
- (d) identify any allotment on which it is intended to erect a dwelling-house and state whether or not the dwelling-house is the primary purpose for which the allotment is being created, and
- (e) show the approximate location of any dwelling-house erected on the land at the date of the application.

- (3) The Council shall not consent to an application to subdivide land within Zone No 1 (a), 1 (c) or 1 (d) unless the application is accompanied by the information required by subclause (2).

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

- (1) The Council may consent to the creation, within Zone No 1 (a), of an allotment of any area if the Council is satisfied the allotment will be used for the purposes of agriculture.
- (2) The Council shall not consent to the creation of an allotment for the purposes of agriculture if the allotment has an area of less than 213 hectares and there is a dwelling-house on the allotment.
- (3) Despite subclause (2), the Council may consent to the creation for the purposes of agriculture of one, but not more than one, allotment having an area of less than 213 hectares from an existing holding on which a dwelling-house stands if that dwelling-house was lawfully erected on that land on or before the appointed day.

13 Subdivision for the purposes of dwelling-houses within Zone No 1 (a)

The Council may consent to the creation of not more than 2 allotments for the purposes of a dwelling-house from an existing holding within Zone No 1 (a) if the Council is satisfied that each allotment to be created:

- (a) has an area of not less than 1 hectare,
- (b) forms part of an existing holding which has an area of not less than 213 hectares,
- (c) is unlikely adversely to affect the existing and potential capability of the land and adjacent land to produce food and fibre or to be used for other agricultural purposes, and
- (d) does not comprise prime crop and pasture land.

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

- (1) The Council shall not consent to an application to subdivide land within Zone No 1 (a) if 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 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 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,
 - (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 that 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 dwelling-houses within Zone No 1 (c)

- (1) The Council shall not consent to an application to subdivide land within Zone No 1 (c) unless:
 - (a) where provision is to be made for the off-site disposal of sewage, the area of each allotment to be created as a result of the subdivision is not less than 5 000 square metres, and
 - (b) where no provision is to be made for off-site disposal of sewage:
 - (i) each allotment to be created as a result of the subdivision has an area of not less than 8 000 square metres with the average area of the resultant lots being not less than 2 hectares,
 - (ii) arrangements satisfactory to the Council have been made for the provision of a permanent water supply to that land, and
 - (iii) the number of allotments having an area of less than 2 hectares which will be created as a result of the subdivision is not more than 65 per cent of the maximum number of allotments which may be created on that land under subparagraph (i).
- (2) Nothing in subclause (1) (b) (i) prevents the Council from consenting to the

subdivision of land within Zone No 1 (c) where the size of the allotments created is less than the prescribed minimum area if it is satisfied that the individual allotments have adequate provision for effluent disposal.

(3) If:

- (a) land to be provided and developed for the communal use of future owners of allotments is created by a subdivision referred to in subclause (1), and
- (b) the Council is satisfied that the resultant development will enhance the amenity of the locality,

the area of that land may be included in calculating the average lot size of that subdivision.

(4) The Council shall not grant consent to the subdivision of land within Zone No 1 (c) 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 density 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) the physical suitability of the land for on-site disposal of wastes, and
- (e) the provisions of subclause (5).

(5) The Council shall not consent to the development of a lot created in accordance with subclause (1) for the purpose of a dwelling-house if that dwelling-house is to be located less than 150 metres from the boundary of land within Zone No 1 (a) unless, in the opinion of the Council, the development will not be adversely affected by the use of adjoining lands for agriculture.

16 Subdivision of land within Zone No 1 (d)

The Council may consent to the subdivision of land within Zone No 1 (d) if each allotment created by the subdivision is not less than 2 hectares in area, and the Council is satisfied that the subdivision will complement future urban development.

17 Subdivision of land within Zone No 2 (v)

(1) A person shall not subdivide land within Zone No 2 (v) so as to create an allotment to be used for the purposes of a dwelling-house unless the allotment has an area of not less than 600 square metres.

- (2) Despite subclause (1), the Council may consent to a subdivision of land within Zone No 2 (v) that creates allotments having an area of less than 600 square metres if the allotments are, in the opinion of the Council, to be used for the erection of villa units in accordance with clause 20, and a person may subdivide the land in accordance with the consent.

18 Dwelling-houses within Zone No 1 (a)

- (1) In this clause, ***vacant land*** means land on which no dwelling-house is erected.
- (2) A person shall not erect a dwelling-house on vacant land within Zone No 1 (a) unless:
- (a) the land comprises:
 - (i) an existing holding,
 - (ii) an allotment created in accordance with 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-house could have been lawfully erected immediately prior to the appointed day,
 - (b) the land has an area of not less than 213 hectares,
 - (c) the land has an area of not less than 20 hectares, and has the benefit of a licence to irrigate horticultural crops issued under section 12 of the [Water Act 1912](#), or
 - (d) the dwelling-house is ancillary and subsidiary to the present or intended development of the allotment on which it is to be erected.
- (3) The Council shall in determining an application to erect a dwelling-house on land referred to in subclause (2) (c) or (2) (d), refer a copy of the application to the Director of the Department of Water Resources if the land is situated in the Coleambally Irrigation Area.
- (4) The Council shall not grant consent to an application referred to in subclause (3) unless:
- (a) it has received a written representation in respect of the application from the Director of the Department of Water Resources and has taken that representation into consideration,
 - (b) the Director has notified the Council in writing that the Director does not wish to make a representation in respect of the application, or
 - (c) 21 days have elapsed after the day upon which the copy of the application was referred as required by subclause (3).

19 Erection of additional dwelling-houses within Zone No 1 (a) or 1 (c)

- (1) The Council may consent to the erection of one additional dwelling-house on land within Zone No 1 (a) or 1 (c) (including the alteration of an existing dwelling-house to create 2 dwellings) where:
 - (a) no additional access to a public road is required from the land,
 - (b) separate ownership of the land on which the additional dwelling is located would require the lodgement of, and approval by the Council of, a separate subdivision application,
 - (c) 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,
 - (d) the land is not prime crop and pasture land, and
 - (e) in the case of land within Zone No 1 (a), a dwelling-house could be erected on the land in accordance with clause 18 if the land were vacant.
- (2) The Council shall not consent to the subdivision of land on which one additional dwelling-house is erected under 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 of more than one dwelling-house the erection of which was consented to pursuant to this clause.

20 Villa units within Zone No 2 (v)

- (1) The development of villa units, not being integrated housing development, may, with the consent of the Council, be carried out on land within Zone No 2 (v).
- (2) A person shall not erect or use a villa unit on land to which this clause applies unless:
 - (a) the site area for each small, medium or large villa unit is not less than the site area specified in respect of a small, medium or large villa unit, as the case may require, for that zone in Column II of the Table to this clause, and
 - (b) there is provided in respect of each small, medium or large villa unit a landscaped area of not less than the area specified in respect of a small, medium or large villa unit, as the case may require, for that zone in Column III of the Table to this clause.

Table

Column I

Column II

Column III

Zone	Minimum site area (in square metres) required for each:	Minimum landscaped area (in square metres) required for each:
	(a) large,	(a) large,
	(b) medium, and	(b) medium, and
	(c) small	(c) small
	villa unit	villa unit
	(a) 330	(a) 110
No 2 (v)	(b) 240	(b) 95
	(c) 170	(c) 70

21 Development 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 designated development.

22 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, 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 an application to carry out development on land within Zone No 1 (a), 1 (c) or 1 (d) for any purpose listed in Schedule 3 if the development on the land for the purpose will have direct access to:
 - (a) an arterial road, or
 - (b) a road connecting an arterial road where the access to that road is within 90 metres (measured along the road alignment of the connecting road) of the alignment of the arterial road.

23 Flood liable land

- (1) A person shall not erect a building or carry out a work for any purpose on flood liable land 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 flood liable land if the Council is satisfied that the development is likely:
 - (a) to impede the flow of flood water on that land or on adjoining land,
 - (b) to imperil the safety of persons on that land or on adjoining land in the event of those lands being inundated with flood water,
 - (c) to aggravate the consequence of flood water flowing on that land or on adjoining land with regard to erosion, siltation and the destruction of vegetation, or
 - (d) to have an adverse effect on the water table to that land or adjoining land.
- (3) The Council shall not grant a consent required by this clause unless it has taken into consideration:
 - (a) the cumulative effect of the development on flood behaviour,
 - (b) the risk of pollution to the waterways caused by the development, and
 - (c) the availability of flood free access to the development.

24 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 sale yards.
- (2) A person shall not, except with the consent of the Council, cause the destruction of trees on:
 - (a) more than 1 hectare of environmentally sensitive land forming the whole or part of an existing holding, or
 - (b) more than 5 per cent of the area of an existing holding, where that 5 per cent

comprises environmentally sensitive land,

whichever is less.

- (3) Subclause (2) does not apply to **protected land** as defined in section 21AB of the [Soil Conservation Act 1938](#).
- (4) The Council shall not consent to an application made for the purposes of 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 and other land degradation,
 - (b) the loss of scenic amenity, and
 - (c) the loss of important vegetation systems and natural wildlife habitats.
- (5) A person shall not, except with the consent of the Council, carry out development on environmentally sensitive land for the purposes of:
 - (a) filling wetlands,
 - (b) draining wetlands, or
 - (c) constructing levees.

25 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.

26 Heritage items

- (1) A person shall not, in respect of a building, work, relic 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 a development application required by 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 features of its setting.

27 Development in the vicinity of heritage items

The Council shall not grant consent to an application to carry out development on land in the vicinity of a heritage item unless the Council has made an assessment of the effect which the carrying out of that development will have on the heritage significance of the item and its setting.

28 Heritage advertisements and notifications

- (1) Except as provided by subclause (2):
 - (a) the provisions of section 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of the demolition of a building or work that is a heritage item in the same way as those provisions apply to and in respect of designated development, and
 - (b) where a person makes a development application to demolish a building or work that is a heritage item, 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.
- (2) Subclause (1) does not apply to the partial demolition of a heritage item if, in the opinion of the Council, the partial demolition will not adversely affect the heritage significance of the building or work in relation to the environmental heritage of the Jerilderie Area.

29 Conservation incentives relating to heritage items

- (1) A person may, with the consent of the Council, use, for any purpose, a building that is a heritage item or the land on which that building is erected.
- (2) The Council is not to grant the consent referred to in subclause (1) unless, in the opinion of the Council:
 - (a) the use would have little or no adverse effect on the amenity of the area, and
 - (b) conservation of the building depends on the Council's granting consent.

30 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.

31 Development along rivers

(1) Notwithstanding any other provisions of this plan, a person shall not, on land to which this plan applies:

- (a) erect a building for any purpose on land within 400 metres of any bank of a river,
- (b) destroy any tree on land within 100 metres of any bank of a river,
- (c) carry out development for any purpose on land within 20 metres of any bank of a river, or
- (d) carry out development for the purposes of:
 - (i) a canal,
 - (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, or
 - (iii) filling or extraction,on land comprising the bed or any bank of a river,

except with the consent of the Council.

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

- (a) a bed of a river, or
- (b) land within Zone No 1 (a), 1 (c) or 1 (d) and being within 40 metres of any bank or a river,

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

- (c) is ancillary to the use of that land for the purpose of a recreation area, or
- (d) is to be used for the purpose 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 consent to an application made in accordance with subclause (1) unless, in the opinion of the Council, the destruction of the trees or the development on the land, including subdivision of the 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 and other land degradation,
- (b) the loss of scenic amenity, and
- (c) the loss of important vegetation systems and natural wildlife habitats, including fish habitats.

32 Forestry

- (1) This clause applies to land within a state forest or timber reserve within the meaning of the *Forestry Act 1916*.
- (2) Notwithstanding the provisions of clauses 9 and 24, development may be carried out on land to which this clause applies without development consent:
 - (a) by the Forestry Commission, if the development is authorised under the *Forestry Act 1916*, or
 - (b) by any person, if the development is authorised by an authority granted or issued by the Forestry Commission under that Act.

33 Advertising structures

- (1) A person shall not, except with the consent of the Council, erect an advertising structure on land to which this plan applies.
- (2) The Council shall not consent to the erection of an advertising structure unless:
 - (a) the advertisement on or to be placed on the structure indicates or is to indicate the purpose for which the premises on the land are to be used, or
 - (b) in the case of land within Zone No 1 (a), 1 (c) or 1 (d), the advertising structure is to be used for the purpose of displaying an advertisement indicating the location of tourist facilities and places of scientific, cultural, historic or scenic interest.

and unless the Council is satisfied that the advertising structure will not interfere with the amenity of the area.

34 Development on travelling stock routes

- (1) The Council shall, in determining an application for consent to carry out development on land that is part of a travelling stock reserve within the meaning of the *Rural Lands Protection Act 1989*, refer a copy of the application to the Rural Lands Protection Board established under that Act for the district in which the land is located.
- (2) The Council shall not grant consent to an application referred to in subclause (1) unless:
 - (a) it has received a written representation in respect of the application from the Rural Lands Protection Board and has taken that representation into consideration,

(b) the Board has notified the Council in writing that the Board does not wish to make a representation in respect of the application, or

(c) 21 days have elapsed after the day on which the copy of the application was referred to the Board.

Schedule 1 Heritage items

(Clauses 5 (1), 26)

Sir John Monash's House
Jerilderie Court House
Ned Kelly Post Office and surrounds—Powell Street, Jerilderie
Jerilderie Railway Station

Schedule 2 Development which must be advertised

(Clause 21)

- 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 as part of the environmental heritage of the Jerilderie Area.
- 2 Boarding-houses; hotels; motels; residential flat buildings.
- 3 Industries (other than home industries and rural industries) in Zone No 1 (a) or 1 (c).
- 4 Intensive livestock keeping establishments.
- 5 Junk yards; liquid fuel depots; saw-mills; stock and sale yards.

Schedule 3 Restricted development along arterial roads

(Clause 22)

Bulk stores
Caravan parks
Car repair stations
Clubs
Commercial premises
Educational establishments
Hospitals
Hotels
Industries (other than home or rural industries)
Institutions
Junk yards
Liquid fuel depots
Mines
Motels
Places of assembly
Places of public worship
Recreation establishments

Recreation facilities
Refreshment rooms
Retail plant nurseries
Roadside stalls
Sawmills
Service stations
Stock and sale yards
Transport terminals
Warehouses