

Mulwaree Local Environmental Plan 1995

[1995-701]



New South Wales

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Mulwara Local Environmental Plan 1995



New South Wales

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Mulwaree Local Environmental Plan 1995



New South Wales

Part 1 Preliminary

1 Name of plan

This plan may be cited as *Mulwaree Local Environmental Plan 1995*.

2 Aims, objectives, etc

The general aims and objectives of this plan are:

- (a) to encourage the proper management, development and conservation of natural and man-made resources within the Mulwaree area by protecting, enhancing, and conserving:
 - (i) prime crop and pasture land,
 - (ii) timber, mineral, soil, water and other natural resources,
 - (iii) places of significance for nature conservation,
 - (iv) features and places of high scenic or recreational value, and
 - (v) places and buildings of archaeological or heritage significance, including aboriginal relics and places, and
- (b) to replace the existing planning controls with a single local environmental plan to help facilitate growth and development of the Mulwaree area in a manner which is consistent with the objectives 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 delivery of services and facilities,
 - (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,
 - (vi) identifies suitable localities and standards for the development of rural small holdings,
 - (vii) provides for the protection and enhancement of heritage items within the towns, villages and other localities within the Mulwaree area, and
 - (viii) facilitates the protection of the Warragamba and Shoalhaven Catchment areas, and
- (c) to afford protection to the environmental heritage within the Mulwaree area by:
- (i) conservation of the environmental heritage,
 - (ii) integration of heritage conservation into the planning and development control processes,
 - (iii) providing for public involvement in matters relating to the conservation of the environmental heritage, and
 - (iv) ensuring that development is undertaken in a manner that is sympathetic to and does not detract from the heritage significance of heritage items and their settings.

3 Land to which plan applies

- (1) This plan applies to all land within the Mulwaree area as shown on the map, with boundaries as indicated on the map.
- (2) This plan does not apply to land shown as “Deferred Matter” on the overlay to the map marked “*Overlay to the Map*” deposited in the office of the Council, despite subclause (1).

4 Relationship to other environmental planning instruments

The *Mulwaree Planning Scheme Ordinance*, and such local environmental plans as, immediately before the appointed day, applies to the land to which this plan applies, are repealed.

5 Interpretation

- (1) In this plan:

agriculture means the use of land for any purpose of husbandry, including the keeping or breeding of livestock, poultry or bees, and the growing of crops, fruit, vegetables and the like, and includes horticulture, but does not include the use of land for intensive livestock-keeping establishments, the erection of buildings or rural

industry.

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

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

animal boarding or training establishment means a building or place for the commercial boarding, breeding, keeping or training of animals, (other than dogs), and includes a riding school and veterinary clinic.

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

camping area means an area of land that is used for the setting up of tents, camper vans, caravans or the like that are to be used for the temporary accommodation of persons.

caravan park means land designated as sites for moveable dwellings, including tents and caravans or other vehicles used for accommodation.

classified road means any road proclaimed or dedicated as a public road under the authority of any Act.

Council mean the Council of the Mulwaree area.

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

dog breeding or boarding means the keeping or kennelling (or both) of dogs and their pups, but does not include the keeping or kennelling of up to 3 dogs of any recognised stock handling breed with their pups if kept for a period not exceeding 12 weeks from the birth date of the pups.

existing holding means:

- (a) except as provided by paragraph (b), the area of a lot or portion of land as it was at 15 May 1970, or
- (b) where as at 15 May 1970, a person owned two or more adjoining or adjacent lots, portions or parcels of land, the aggregation of the areas of these lots, portions or parcels as they were at 15 May 1970.

heritage conservation area means the land shown edged heavy black on the inset to sheet 4 of the map.

heritage item means a building, work, relic, tree or place of heritage significance to the Mulwaree area described in Schedule 1.

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

highway service centre means a place providing facilities for the fuelling of motor vehicles involving the sale of petrol, oil and other petroleum products and spare parts and accessories for motor vehicles together with restaurants and take-away food facilities, a convenience store, tourist information facilities, vehicle parking areas, emergency vehicle repair and truck wash and maintenance.

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) feedlots,
- (b) piggeries,
- (c) poultry farms, and
- (d) fish farms (including farms cultivating crustaceans),

but does not include an animal boarding or training establishment or the keeping of livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of the land.

land filling operation means any work or other activity on land for any purpose which has the effect of materially altering the shape or natural form of the land.

main road means:

- (a) an existing road indicated on the map by heavy broken black lines, and
- (b) existing classified Main Roads Nos 248, 256, 258 and 268.

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

periodic public entertainment means a fete, show, fireworks display or the like conducted from time to time by a service club or similar body, but does not include a major commercial entertainment.

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, 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 has notified the Council in writing is not prime crop and pasture land for the purposes of this plan.

public amenity means a temporary shelter, toilet or ablution building, or a small kiosk used only during sporting or recreational activities.

recreation area means:

- (a) a children's playground,
- (b) a place used for sporting activities or sporting facilities,
- (c) a place 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 purpose 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 (terrestrial or underwater) relating to the use or settlement of the area of Mulwaree and listed or otherwise indicated as a relic in a document available for inspection at the office of the Council.

Sydney Water means Sydney Water Corporation Limited.

the map means the set of maps marked "*Mulwaree Local Environmental Plan 1995*" as amended by the maps (or, if any sheets of maps are specified, by the specified sheets of the maps) marked as follows:

Mulwaree Local Environmental Plan 1995 (Amendment No 2)—Sheet 2

Mulwaree Local Environmental Plan 1995 (Amendment No 3)—Sheet 1

water catchment area means land within the physical catchments of the Warragamba Dam and Tallowa Dam.

watercourse means land along which water flows permanently or intermittently and which is so shown in respect of the land to which this plan applies on a Land Information Centre 1:25000 topographic map.

Welcome Reef Dam inundation area and buffer zone means the land shown horizontally hatched with black lines on the map.

(2) In this plan:

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

6 Adoption of Model Provisions

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

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

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

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

Zone No 1 (a1) (Rural—Special Purposes)—edged heavy black and lettered “1 (a1)”,

Zone No 1 (b) (Rural—Urban Investigation)—edged heavy black and lettered “1 (b)”,

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

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

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

Zone No 6 (a) (Regional Recreation)—edged heavy black and lettered “6 (a)”,

Zone No 7 (a) (Environmental Protection—Water Catchment)—edged heavy black and lettered “7 (a)”,

Zone No 7 (b) (Environmental Protection)—edged heavy black and lettered “7 (b)”,

Zone No 8 (National Parks and State Recreation Areas)—edged heavy black and lettered “8”.

- (2) For the purposes of this plan, Zones Nos 1 (a), 1 (b) and 1 (c) are referred to collectively as the “rural zones”.

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 must not consent to the carrying out of development on the land to which this plan applies unless the Council is of the opinion that the carrying out of the development is consistent with the objectives of the zone within which the development is proposed to be carried out.

Table

Zone No 1 (a) (General Rural)

1 Objectives of zone

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

- (a) promoting, enhancing and conserving:
 - (i) agricultural land, particularly prime crop and pasture 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, as identified by the Department of Conservation and Land Management,
 - (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 in sensitive areas and in any place where the conservation of the vegetation is significant to the protection of scenic amenity or natural wildlife habitat or is likely to control or contribute to the control of land degradation,
 - (vi) water resources and water catchment areas for use in the public interest,
 - (vii) localities of significance for nature conservation, including localities with rare plants, wetlands, permanent watercourses and significant wildlife habitat, and
 - (viii) places and buildings of archaeological or heritage significance, including aboriginal relics and places,
- (b) minimising the costs to the community of:
- (i) fragmented and isolated development of rural land, and
 - (ii) providing, extending and maintaining public amenities and services, and
- (c) 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, and subject to the capability of the land and its importance in terms of the other objectives of this zone.

2 Without development consent

Agriculture; periodic public entertainments; tree planting (including planting for the purpose of growing farm woodlots of up to 10ha each, but not including planting for the purpose of forestry).

3 Only with development consent

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

4 Prohibited

Boarding houses; child care centres; clubs; commercial premises; dog breeding or boarding; hospitals; hotels; institutions; motor showrooms; offensive or hazardous industries; residential flat buildings; roadside stalls; shops; professional consulting rooms; refreshment rooms; taverns; units for aged persons.

Zone No 1 (a1) (Rural—Special Purposes)

1 Objectives of zone

The objectives of this zone are:

- (a) to enable development that is:
 - (ii) compatible with motor racing,
 - (iii) complementary to existing rural activities, and
 - (iv) sympathetic with the environmental characteristics of the land, and
- (b) to preserve and conserve prime crop and pasture land by ensuring that it is not unnecessarily converted to non-agricultural uses.

2 Without development consent

Agriculture.

3 Only with development consent

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

4 Prohibited

Boarding-houses; child care centres; commercial premises; dog breeding or boarding; dwelling-houses; hospitals; institutions; motor showrooms; offensive or hazardous industries; places of public worship; professional consulting rooms; public buildings; residential flat buildings; roadside stalls; units for aged persons.

Zone No 1 (b) (Rural—Urban Investigation)

1 Objectives of zone

The objectives of this zone are:

- (a) to identify land surrounding the City of Goulburn, and surrounding other land within the Mulwaree area that is within the Village Zone, which may be required to accommodate the future urban growth of the City and villages,
- (b) to permit interim development of the land within this zone for purposes that will not compromise their possible future use for urban and related development and which will maintain the existing character of the locality,
- (c) to set aside land uncommitted to other uses for the determination of its long term use in the light of future circumstances and demand, including demand for adequate areas of land for industrial and residential purposes,
- (d) to permit detailed investigation of the suitability of the land for a variety of urban purposes consistent with general and particular future requirements,
- (e) to restrict development of the land for any purpose which may prejudice the eventual future use of the land for urban purposes,
- (f) to ensure that development conserves, enhances and does not adversely affect the physical characteristics, environmental qualities and scenic attributes of perimeter urban lands, and
- (g) to ensure that development does not create an unreasonable or uneconomic demand for the provision or extension of public amenities or services.

2 Without development consent

Agriculture.

3 Only with development consent

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

4 Prohibited

Boarding houses; child care centres; commercial premises; dog breeding or boarding; extractive industries; hospitals; hotels; institutions; intensive livestock keeping establishments; motels; motor showrooms; offensive or hazardous industries; residential flat buildings; shops; professional

consulting rooms; taverns; units for aged persons.

Zone No 1 (c) (Rural Small Holdings)

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 development,
- (b) to permit home industries which are compatible with the environmental capabilities of the land and which will not adversely affect the quality of water resources in the vicinity, and
- (c) to preserve and enhance the amenity of the rural residential and hobby farm area by ensuring that development is carried out in a sympathetic manner.

2 Without development consent

Agriculture.

3 Only with development consent

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

4 Prohibited

Boarding houses; dog breeding or boarding; commercial premises; extractive industries; hotels; industry; intensive livestock keeping establishments; junkyards; mines; motels; motor showrooms; offensive or hazardous industries; refreshment rooms; residential flat buildings; shops (other than general stores not exceeding 100m² in gross floor area).

Zone No 2 (v) (Village)

1 Objectives of zone

The objective of this zone is to promote development in existing towns and villages and to allow future development in them in a manner which is compatible with their urban function by:

- (a) ensuring the orderly and efficient use of land and infrastructure within each town and village,

(b) improving the amenity of residential, commercial, civic and community uses within the towns and villages, and

(c) conserving the buildings, landscape features and streetscape features that contribute to the character and identity of the villages.

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose included in item 4.

4 Prohibited

Extractive industries; industry; intensive livestock keeping establishments; junkyards; liquid fuel depots; mines; offensive or hazardous industries.

Zone No 4 (a) (Industrial)

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 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 purposes other than a purpose included in item 4.

4 Prohibited

Boarding houses; caravan parks; dwelling-houses; educational establishments; extractive industries; places of assembly; places of public worship; professional consulting rooms; public buildings; residential flat buildings; roadside stalls; units for the aged.

Zone No 6 (a) (Regional Recreation)

1 Objectives of zone

The objectives of this zone are:

- (a) to enable development that is:
 - (i) complementary to or for the purpose of motor speed events,
 - (ii) complementary to or for the purpose of advanced motor vehicle driver training, and
 - (iii) sympathetic with the environmental characteristics of the land, and
- (b) to protect or conserve the scenic and rural amenity of the locality by controlling the siting of buildings and the materials used, and
- (c) to promote Wakefield Park as a regional recreational facility.

2 Without development consent

Agriculture.

3 Only with development consent

Advertising structures; camping areas; caravan parks; children's playgrounds; clubs; educational establishments; helipads; motels; motor speed events and associated activities; motor vehicle driver training; museums; public buildings; recreation establishments; recreation facilities; refreshment rooms; taverns; tourist facilities.

4 Prohibited

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

Zone No 7 (a) (Environmental Protection—Water Catchment)

1 Objectives of this zone

The objective of this zone is to protect land which is designated as being part of a water catchment area from land uses which adversely affect, or are like to adversely affect, the environmental quality of these areas.

2 Without development consent

Water catchment.

3 Only with development consent

Agriculture; any development ordinarily incidental to or subsidiary to water catchment; dams; drainage; dwelling-houses; extractive industries; forestry; home activities; land filling operations; mines; recreation areas; roads; roadside stalls; turf farming; 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 7 (b) (Environmental Protection)

1 Objectives of zone

The objective of this zone is to conserve those lands possessing high scenic amenity or landscape value to the district by:

- (a) enabling development of land within the zone only where that development will maintain or enhance:
 - (i) the scenic environment along elevated lands surrounding the City of Goulburn,
 - (ii) key landscape features, being the dominant ridgelines and slopes and the intermediate ridges forming a visual backdrop to the City of Goulburn and places of special landscape amenity,
 - (iii) the scenic amenity of localities that are exposed to principal transport corridors and areas of major public activity surrounding the City of Goulburn, and
 - (iv) to ensure that development maintains the existing character of the locality and minimises disturbance to the scenic value of the landscape through clearing, earthworks, access roads and construction of buildings, and
- (b) excluding any development which is visually intrusive or which would to an extent degrade the environmental value, landscape integrity, or visual amenity of this zone or surrounding zones.

2 Without development consent

Agriculture (but not including the growing of fruit and vegetables, and

horticulture).

3 Only with development consent

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

4 Prohibited

Boarding houses; child care centres; clubs; commercial premises; dog breeding or boarding; educational establishments; extractive industries; hospitals; hotels; industries; institutions; intensive livestock keeping establishments; junkyards; mines; motels; motor showrooms; offensive or hazardous industries; refreshment rooms; residential flat buildings; shops; places of assembly; places of public worship; professional consulting rooms; taverns; units for aged persons.

Zone No 8 (National Parks and State Recreation Areas)

1 Objectives of zone

The objectives of this zone are to identify national parks, nature reserves and state recreation areas administered by the National Parks and Wildlife Service and to facilitate use of those lands for the purposes of the *National Parks and Wildlife Act 1974*.

2 Without development consent

Any purpose or activity authorised under the *National Parks and Wildlife Act 1974*.

3 Only with development consent

Nil.

4 Prohibited

Any purpose other than a purpose included in item 2.

Part 3 Special provisions

10 General considerations for development

The Council may consent to an application to carry out development on land within Zone No 1 (a), 1 (b), 1 (c), 2 (v), 4 (a), 7 (a) or 7 (b) only if it has taken into consideration, if relevant, the effect of the carrying out of that development on:

(a) the present 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 stability) and water resources (including the quality and stability of watercourses, aquatic wildlife habitat, ground water storage and riparian rights),
- (c) the future recovery of known or prospective areas of valuable deposits of minerals, coal, petroleum, or extractive 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, including electricity, to the development,
- (f) future expansion of settlement in the locality, and
- (g) the quality and availability of water resources within the water catchment area.

11 Subdivision of land generally

- (1) A person must not subdivide land to which this plan applies, except with the consent of the Council.
- (2) The Council shall not consent to the subdivision of land within Zone No 1 (a), 1 (b), 1 (c), 7 (a) or 7 (b) unless it has made an assessment of:
 - (a) whether the ratio of depth to frontage of each proposed allotment is adequate, having regard to:
 - (i) the purpose for which the allotment is intended to be used,
 - (ii) minimising the creation of vehicular access points to main or arterial roads,
 - (iii) the location of vehicular access points from the allotment in a safe position,
 - (b) whether the subdivision will create or increase potential for ribbon development along any road, particularly a main or arterial road, and
 - (c) the siting of roads in relation to topography, drainage and soil erodability.
- (3) The Council shall not consent to the subdivision of land to which this plan applies unless it has obtained all relevant information in relation to, and make an assessment of:
 - (a) the primary purpose for which each allotment to be created is intended to be used,
 - (b) whether any allotment to be created is intended to be used primarily for the

purpose of a dwelling, and

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

12 Subdivision of land for the purposes of dwelling-houses within Zone No 1 (a), 1 (b), 7 (a) or 7 (b)

- (1) This clause applies to land within Zone No 1 (a), 1 (b), 7 (a) or 7 (b).
- (2) The Council shall not consent to the creation of an allotment that the Council is satisfied will be used for the purposes of a dwelling-house if the allotment has an area of less than 40ha.
- (3) Notwithstanding subclause (2), the Council may consent to the excision of allotments from not less than 50ha of land to which this clause applies that is an existing holding if the Council is satisfied that the proposed allotments will be used for the purpose of a dwelling-house.
- (4) The total number of allotments that may be excised under subclause (3) shall not exceed:
 - (a) where the area of the existing holding is less than 80ha but not less than 50ha—1,
 - (b) where the area of the existing holding is not less than 80ha but not greater than 120ha—2, or
 - (c) where the area of the existing holding is not less than 120ha—3,and each allotment created must have an area of not less than 10ha.
- (5) The total number of allotments referred to in subclause (4) includes any allotments lawfully created or approved by the Council before this plan took effect under clause 22 (5) of the *Mulwaree Planning Scheme Ordinance*.
- (6) Notwithstanding subclause (2), (3) and (4), the Council shall not consent to the creation of an allotment for the purpose of a dwelling-house if the allotment has an area of less than 100ha and is within an area identified on Sheet 6 of the map as land that cannot be economically serviced by a reticulated electricity supply.
- (7) Notwithstanding subclause (2), (3) and (4), the Council is to refer to Sydney Water for comment any application for consent to subdivide land to which this clause applies if that land is within the Welcome Reef Dam inundation area and buffer zone, and the Council is to have regard to any such comment when determining the application.

13 Subdivision for other purposes within Zone No 1 (a), 1 (b), 7 (a) or 7 (b)

- (1) This clause applies to land within Zone No 1 (a), 1 (b), 7 (a) or 7 (b).

- (2) The Council must not consent to an application to subdivide land to which this clause applies if the Council is satisfied that any allotment to be created by the subdivision will be used for purposes other than agriculture or a dwelling-house unless, in the opinion of the Council:
 - (a) the land to be subdivided is not prime crop and pasture land and the subdivision and subsequent development is unlikely to affect the agricultural production potential of other land adversely, 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.
- (3) Nothing in subclause (2) prevents the Council from granting consent to the subdivision of land to which this clause applies to create an allotment if it 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.
- (4) Notwithstanding subclauses (2) and (3), the Council is to refer to Sydney Water for comment any application for consent to subdivide land within the Welcome Reef Dam inundation area and buffer zone, and the Council is to have regard to any such comment when determining the application.

14 Subdivision for the purposes of dwelling-houses within Zone No 1 (c)

- (1) This clause applies to land within Zone No 1 (c).
- (2) The Council may consent to an application to subdivide land to which this clause applies if the Council is satisfied that any allotment to be created by the subdivision will have an area of not less than 2ha and will be used for the purpose of a dwelling-house.
- (3) Notwithstanding subclause (2), the Council may consent to the subdivision of land to which this clause applies involving the creation of allotments having areas of less than 2ha if it is satisfied that:
 - (a) the average area of the allotments proposed to be created by the subdivision (excluding any part of the land having an area of more than 10ha) will not be less than 2ha,

- (b) none of the allotments proposed to be created by the subdivision will have an area of less than 1ha,
- (c) not more than 15% of the land (excluding any part of the land that is comprised of allotments having an area of more than 10ha) is to comprise allotments having an area of less than 2ha,
- (d) allotments having an area of less than 2ha will not be clustered in groups of more than four such allotments, and
- (e) each allotment having an area of less than 2ha will have frontage to a public road other than an arterial road.

15 Requirements for the subdivision of land within Zone No 1 (c)

When considering the size and number of allotments to be created by a subdivision of land within Zone No 1 (c), the Council shall not consent to the subdivision 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 economical provision of services and physically suitable for on-site disposal of wastes,
- (d) the findings of a permeability test to ascertain whether the land has adequate capability for on-site effluent disposal and that such disposal will not adversely affect water quality or adjoining land through either surface or sub-surface flows,
- (e) the visual impact of the development from arterial roads,
- (f) whether an adequate water supply is available to each allotment.

16 Subdivision for the purposes of dwelling-houses within Zone No 2 (v)

- (1) This clause applies to land within Zone No 2 (v).
- (2) The Council may consent to an application to subdivide land to which this clause applies so as to create allotments which the Council is satisfied will be used for the purpose of dwelling-houses only where the proposed allotments:
 - (a) if located within the serviced areas of the village of Marulan—will have areas of at least 700m², or
 - (b) if located elsewhere—will have areas of at least 1500m², and the findings of a

permeability test in a section of the land demonstrate that the land adequate capability for the on-site disposal of effluent and that such disposal will not adversely affect the water quality on/or under adjoining land through either surface or sub-surface flows.

(3) Despite subclause (2), the Council may consent to an application to subdivide land to which this clause applies that is not located within Zone No 2 (v) in Marulan village so as to create allotments having an area of less than 1500m² (but not less than 900m²) if the Council is satisfied, by the results of a detailed analysis, of the suitability for on-site disposal of wastes from the lots to be created, where that analysis has included consideration of:

- (a) shape,
- (b) ground cover,
- (c) transpiration factors,
- (d) the proximity of the proposed dwelling to drainage lines,
- (e) the location of the proposed dwellings in relation to proposed septic systems and to each other, and
- (f) the composition of the soil.

17 Subdivision of land within Zone No 4 (a)

- (1) This clause applies to land within Zone No 4 (a).
- (2) the Council shall not consent to the creation of an allotment for any purpose if the allotment will have an area of less than 5000m².

18 Subdivision savings clause

Nothing in this plan shall prohibit or restrict the subdivision of land in Zone No 1 (a), 1 (b), 1 (c), 2 (v), 4 (a), 7 (a) or 7 (b) for any of the following purposes:

- (a) the opening or widening of a public road,
- (b) minor adjustments to common property boundaries,
- (c) to rectify any encroachment upon an existing allotment,
- (d) to enlarge an area of an existing holding by amalgamating that existing holding with one or more other existing holdings, or
- (e) to enlarge the area of an allotment having an area of not less than 40ha by amalgamating allotments or part of another allotment, being another allotment which has an area of not less than 40ha so that the area of the reduced allotment is not

reduced below 40ha.

19 Dwelling-houses within Zone No 1 (a), 1 (b), 7 (a) or 7 (b)

- (1) For the purpose of this clause, **parcel** means one or more adjoining or adjacent lots or portions in the one ownership.
- (2) This clause applies to land within Zone No 1 (a), 1 (b), 7 (a) or 7 (b).
- (3) The Council may consent to the erection of a dwelling-house on land to which this clause applies only if no dwelling-house is erected on the land and the land:
 - (a) has an area of not less than 40ha,
 - (b) comprises an allotment created by subdivision in accordance with clause 12,
 - (c) comprises the whole of an existing holding, and the Council is satisfied that:
 - (i) there will be adequate coinciding legal and practical vehicular access available to the dwelling-house,
 - (ii) the erection of the dwelling-house will not create or increase ribbon development along a main or arterial road, and
 - (iii) adequate utility services are or will be available to the existing holding,
 - (d) comprises an allotment created by subdivision in accordance with clause 13, if the Council is satisfied that the use of the dwelling-house will be ancillary and subsidiary to the purpose for which the allotment was created,
 - (e) comprises an allotment created by a subdivision to which the consent of the council was granted before the appointed day and on which a dwelling-house could have been lawfully erected under environmental planning instruments then in force, or
 - (f) comprises an allotment having an area of not less than 10ha lawfully created before 28 March 1977, being in separate ownership on that day, and on which a dwelling-house could have been erected under environmental planning instruments then in force.
- (4) The council shall not consent to the erection of a dwelling-house on land to which this clause applies unless:
 - (a) the land contains a suitable dwelling-house site which is easily accessed from the point of entry from a public road, which point of entry will not cause a traffic hazard, and
 - (b) the land has a site for a dwelling-house and access that are not subject to adverse flood, bush fire or erosion hazards.

- (5) The Council shall not consent to the erection of a dwelling-house on land to which this clause applies where access is by way of a right-of-carriageway which serves or is capable of serving any other portion or allotment of land other than that on which the dwelling-house is to be erected.
- (6) The Council may consent to the erection of a dwelling-house on an allotment of land to which this clause applies on which another dwelling-house is erected if the first-mentioned dwelling-house is intended to wholly replace the second-mentioned dwelling-house.

20 Rural workers' dwelling-houses within Zone No 1 (a), 1 (b), 7 (a) or 7 (b)

- (1) The Council may consent to an application to erect one additional dwelling-house (being a rural worker's dwelling-house) for each 40ha of land within Zone No 1 (a), 1 (b), 7 (a) or 7 (b) which has an area of not less than 80ha, but only if the Council is satisfied that:
 - (a) no additional access to a main or arterial road is required from the land, and
 - (b) any dwelling-house to be erected on that land will not interfere with the purpose for which the land is being used.
- (2) The Council shall not consent to the erection of a rural worker's dwelling-house unless the additional dwelling-house is to be located on land comprised within the same Crown Grant or Certificate of Title as the land on which the principal dwelling-house stands or if the Parish Portion or allotment on which the additional dwelling-house is to be erected has an area of less than 40ha.

21 Dwelling-houses on land fronting certain roads

- (1) This clause applies to land having frontage to a road listed in Schedule 2.
- (2) The Council shall not consent to the erection of a dwelling-house or rural worker's dwelling-house on land to which this clause applies unless the dwelling is to be erected at a distance greater than 100m from the road boundary.

22 Dwelling-houses within Zone No 1 (c)

The Council may consent to the erection of a dwelling-house on land within Zone No 1 (c) only if no dwelling-house is erected on the land and the land:

- (a) has an area of not less than 2ha, or
- (b) comprises an allotment created by subdivision in accordance with clause 14.

23 Dwelling-houses within Zone No 2 (v)

- (1) The Council may consent to the erection of a dwelling-house on land within Zone No 2 (v) only if no dwelling-house is erected on the land and the land:

- (a) has an area of not less than 700m² if it is located in the serviced areas of Marulan village,
 - (b) has an area of not less than 1500m² if it is located elsewhere, or
 - (c) comprises an allotment created by subdivision in accordance with clause 16.
- (2) Despite subclause (1), the Council may consent to an application to erect a dwelling-house on land to which this clause applies having an area of less than 1500m² (but not less than 900m²) if the Council is satisfied with the results of a detailed analysis of the suitability for on-site disposal of wastes from the land on which the dwelling-house is to be erected, where that analysis has included consideration of:
- (a) slope,
 - (b) ground cover,
 - (c) transpiration factors,
 - (d) the proximity of the proposed dwelling-house to flow-lines,
 - (e) the location of the proposed dwelling-house in relation to existing septic systems, and
 - (f) the composition of the soil.

24 Applications that must be advertised

The provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to, and in respect of, development for a purpose specified in Schedule 3 in the same way as those provisions apply to and in respect of designated development.

25 Development along arterial roads

- (1) The Council may consent to an application to carry out development on land which has frontage to an arterial road only if:
- (a) access to that land is provided by a road other than the arterial road, wherever practicable,
 - (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, and

- (c) the location, design and construction of access points and on-site roadways and parking areas are to be such as do not cause erosion or sedimentation or traffic hazards.
- (2) Unless adequate provision is made for safe access and the maximum abatement of traffic safety problems, the council shall not consent to the development of rural land within Zone No 1 (a), 1 (b), 1 (c) or 7 (b) for any purpose listed in Schedule 4 if the development of the land for the purpose will result in direct vehicular access to:
 - (a) an arterial road, or
 - (b) a road connecting an arterial road, and the access to that road is within 90m (measured along the road alignment of the connecting road) of the alignment of the arterial road.

26 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, or excavate for the purpose of exposing the relic,
 - (c) damage or despoil the place or tree,
 - (d) erect a building on or subdivide land on which the building, work or relic is situated or that comprises the place, or
 - (e) 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 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 and its setting.

27 Heritage conservation area

- (1) A person shall not, in respect of a heritage conservation area:
 - (a) demolish or alter a building or work within the area,
 - (b) damage or move a relic, or excavate for the purpose of exposing or removing a relic, within the area,
 - (c) damage or despoil a place within the area, or

(d) erect a building on or subdivide land within the area

except with the consent of the Council.

(2) The Council shall not consent to an application required by subclause (1) unless it has taken into consideration that extent to which the carrying out of the proposed development would affect the heritage significance of the heritage conservation area.

28 Development in the vicinity of heritage items

The Council shall not consent to an 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 significance of the item and its setting.

29 Heritage advertisements and notifications

(1) Except as provided by subclause (2):

(a) the provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to, and in respect of, the demolition of a building or work within a heritage conservation area or 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 within a heritage conservation area or that is a heritage item, the Council shall not 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 or building or work within a heritage conservation area if, in the opinion of the Council, the partial demolition will be of a minor nature and will not adversely affect the heritage significance of the heritage item, building or work in relation to the environmental heritage of the Mulwaree area.

30 Provisions relating to heritage items or heritage conservation area covered by a conservation instrument

Clauses 26, 27 and 29 shall not apply where the heritage time or building or work within a heritage conservation area is the subject of a conservation instrument within the meaning of the [Heritage Act 1977](#).

31 Access

The intersection point of a new road or driveway to any existing public road shall not be constructed without the consent of the Council.

32 Development near zone boundaries

Where it is intended to carry out development on a site that is divided by a zone boundary

and the proposed development is prohibited within one of the zones but permitted in the other, the Council may consent to the development providing that the development extends no more than 20m into the adjoining zone within which it would otherwise be prohibited.

33 Land subject to bush fire hazards

The Council shall not consent to the subdivision of land, other than for boundary adjustments, or to the erection of a building on land that is considered by the Council, following an assessment of the land by the Council, to constitute a medium to high bush fire hazard 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 dams, fire breaks, reserves and fire radiation zones,
- (c) adequate water supplies are available for fire fighting purposes,
- (d) fire protection measures can be undertaken within the boundaries of the subdivision or allotments, and
- (e) access tracks, dams and firebreaks are designed so as not to cause erosion or sedimentation of drainage lines or other soils.

34 Community use of school facilities and sites

Where land to which this plan applies is used for the purpose of an educational establishment, the site and facilities of the establishment may, with the consent of the Council, be used for the purposes of meeting rooms, public halls, public libraries, entertainment, sport or recreation, or for any other community purpose, whether or not any such use is a commercial use of the land.

35 Dual occupancy

- (1) A person may, with the consent of the Council, alter or add to a dwelling-house on land within Zone No 1 (a), 1 (b), 1 (c), 2 (v), 7 (a) or 7 (b) so as to create two dwellings if:
 - (a) in the case of land within Zone No 2 (v), the area of the allotment on which the dwellings will be situated is not less than 700m² in the serviced area of Marulan village and not less than 1500m² elsewhere, and
 - (b) in every case, arrangements have been made for the provision of a water supply to each dwelling and for the disposal of sewerage and stormwater from each dwelling.

- (2) The provisions of this plan relating to residential flat buildings do not apply to a building altered or added to or proposed to be altered or added to pursuant to this clause.
- (3) If two dwellings are erected or created on an allotment of land in accordance with this clause, being an allotment other than an allotment zoned to allow residential flat buildings, the separate occupation of the proposed lots illustrated by a strata plan relating to those dwellings is prohibited.

36 Development within the Welcome Reef Dam inundation area and buffer zone

- (1) The Council shall not consent to the carrying out of any development listed in Schedule 5 on land within the Welcome Reef Dam inundation area and buffer zone without the concurrence of Sydney Water.
- (2) Sydney Water, in deciding whether concurrence referred to in subclause (1) should be granted, shall take into consideration whether the development, if carried out, will or is likely to result in the degradation of land to which this clause applies.

37 Development for certain additional purposes

- (1) Nothing in this plan prevents a person, with the consent of the Council, from carrying out development on land referred to in Schedule 6 for a purpose indicated in relation to that land in that Schedule, subject to such conditions, if any, as are so indicated.
- (2) Subclause (1) does not affect the application, to or in respect of development to which that subclause applies, of such of the provisions of this plan as are not inconsistent with that subclause or with a consent granted by the Council in respect of that development.

38 Development along roads within Zone No 1 (a), 1 (b) or 7 (b)

The Council shall not consent to the erection of a building on land within Zone No 1 (a), 1 (b) or 7 (b) unless the building is to be erected at a distance greater than 50m from the road boundary (with the exception of dwelling-houses being erected on land having frontage to roads listed in Schedule 2).

39 Development within Zone No 7 (a)

- (1) The Council shall not consent to the carrying out of development on land within Zone No 7 (a) (being land that is within a special area as referred to in section 81 of the *Water Board (Corporation) Act 1994*) without the concurrence of Sydney Water.
- (2) In deciding whether concurrence referred to in subclause (1) should be granted, Sydney Water shall take into consideration the likelihood of waters in the special area concerned being polluted as a result of the carrying out of the proposed development.

40 Development within Zone No 7 (b)

Where it is intended to develop land for the purpose of the growing of fruit, vegetables and horticulture on land within Zone No 7 (b), the Council shall not consent to the development unless it has taken into consideration:

- (a) the land capability, including soil resources and soil stability where land is to be cleared,
- (b) whether adequate water supplies for the servicing of the development are or will be provided.

41 Tree clearing

- (1) In this clause:

catchment area means an area identified on Sheet 7 of the map.

clearing means the removal of trees and other vegetation, including the killing of trees by chemicals and other means, but does not include the clearing of regrowth (that is, trees or shrubs that are less than 3m in height and are on land previously cleared for agricultural use), eradication of noxious plants or the cutting down of individual trees for farm purposes such as fencing.

tree includes a sapling, shrub or scrub but excludes commercial plantings of fruit trees and any trees declared noxious under any legislation.

- (2) a person shall not clear land in the Parishes of Baw Baw, Narrangarril, Rhyana or/ Wayo, which form the catchment area for the Goulburn City water supply, without the consent of the Council.
- (3) The Council shall not consent to the clearing of any such land unless:
 - (a) in the opinion of the Council, the clearing will be carried out in a manner which minimises:
 - (i) the risk of soil erosion or other land degradation,
 - (ii) the risk of water pollution through increased siltation, sedimentation or otherwise, and
 - (iii) the destruction of significant vegetation systems, and
 - (b) the area to be cleared does not exceed 1ha and is not within 30m of a watercourse.
- (4) The consent of the Council is not required for:
 - (a) clearing that is reasonably necessary for carrying out development for the purposes of:

- (i) a permanent fence,
- (ii) an access trail up to 10m wide,
- (iii) a cut line for stock movement up to 20m wide,
- (iv) a firebreak up to 30m wide,
- (v) a road up to 20m wide,
- (vi) a telephone, power, gas or water line, but only if the land cleared is not more than 30m wide, or
- (vii) a drain up to 20m wide to a dam, a bore drain or an irrigation channel,
- (b) lopping trees to provide stock feed in times of drought, provided that the method and extent of the lopping ensures the survival and continued health of the trees,
- (c) clearing the regrowth of trees which are less than 3m 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) pruning trees for the purpose of their regeneration or ornamental shaping,
- (e) removing trees which are dying, dead or dangerous, or
- (f) burning undergrowth for the purpose of bush fire management.

42 Quarantined poultry facility at Bungonia

(1) This clause applies to the land shown edged by a heavy black line on Sheet 1 of the map marked "*Mulwaree Local Environmental Plan 1995 (Amendment No 1)*", which is the land lying within 2 kilometres, measured in a straight line, from the rectangle marked "A", "B", "C", "D" on Sheet 2 of the map marked "*Mulwaree Local Environmental Plan 1995 (Amendment No 1)*".

(2) In this clause:

commercial poultry means any poultry, whether free range or housed, which are kept for the purpose of obtaining financial returns from the sale of birds or their products.

commercial poultry farm means a building or place in which, or on which, commercial poultry is nurtured by any method.

domestic poultry keeping means the keeping of poultry, principally, for the benefit of a household and from which activity poultry or poultry products are not sold for consumption or use by others.

poultry includes, but is not limited to, fowls, turkeys, ducks, geese, game birds, ostriches and emus.

Quarantined poultry facility means an establishment used for the quarantining of live imported poultry products prior to their release in Australia.

- (3) Land to which this clause applies shall not be used for the purpose of a commercial poultry farm.
- (4) Nothing in this plan prohibits the development of the land shown outlined in a heavy black line on Sheet 2 of the map marked “*Mulwaree Local Environmental Plan 1995 (Amendment No 1)*” for the purpose of a quarantined poultry facility.
- (5) Nothing in this plan prohibits domestic poultry keeping on land which is more than 400 metres from the rectangle marked “A”, “B”, “C”, “D” on Sheet 2 of the map marked “*Mulwaree Local Environmental Plan 1995 (Amendment No 1)*”.

43 Development of certain land—Wakefield Park

- (1) This clause applies to land within Zones Nos 1 (a1) and 6 (a) shown edged by a heavy black line on Sheet 1 of the map marked “*Mulwaree Local Environmental Plan 1995 (Amendment No 3)*”.
- (2) Despite any other provision of this plan, a person may, with the consent of the Council, carry out development on land within Zone No 1 (a1) shown edged by a heavy black line on Sheet 1 of that map (which is the land lying within 1 kilometre, measured in a straight line, from the polygon marked “A”, “B”, “C”, “D” and “E” on Sheet 2 of that map) for the purpose of a rural worker’s dwelling or a dwelling-house (or both), but only if the dwelling or dwelling-house complies with noise insulation standards to the satisfaction of the Council.
- (3) Neither this clause nor a consent granted pursuant to it prohibits or restricts the development of land within Zone No 6 (a) shown edged by a heavy black line on Sheet 2 of that map for the purpose of a motor racing circuit.

Schedule 1 Heritage items

(Clause 5)

Item	Land description
1	Hillas Farm Homestead and Outbuildings Lot 1 in DP 598080 Parish of Bunnaby, County of Argyle
2	St Matthews Church, Bannaby Part Lot 7 in DP 750001

Schedule 2 Roads

(Clause 21)

State Highways	2, 3
Main Roads	54, 79, 248, 256, 258, 268
Collector Road	SR 30
Currowang Road	SR 90
Oallen Ford Road	SR 24
Windellama Road	SR 42
Sandy Point Road	SR 95
Cullulla Road	SR 33
Mayfield Road	SR 111
Mogo Road	SR 133
Brayton Road	SR 75
Lumley Road	SR 112
Old Marulan South Road	SR 83
Marulan South Road	SR 73

Schedule 3 Development which must be advertised

(Clause 24)

- 1 Boarding-houses; hotels; motels; residential flat buildings.
- 2 Industries, other than rural industries, in Zone No 1 (a), 1 (b), 4 (a) or 7 (b).
- 3 Animal boarding, breeding or training establishments; intensive livestock keeping; junkyards; liquid fuel depots; sawmills.

Schedule 4 Development requiring special provisions in relation to arterial roads

(Clause 25 (2))

Bulk stores
Caravan parks
Car repair stations
Clubs
Commercial premises
Educational establishments
Hospitals
Hotels

Industries (other than home or rural industries)
Institutions
Junkyards
Liquid fuel depots
Mines
Motels
Places of public assembly
Places of public worship
Recreation facilities
Recreational establishments
Refreshment rooms
Retail plant nurseries
Roadside stalls
Sawmills
Service stations
Stock and sale yards
Transport terminals
Warehouses

Schedule 5 Development to be referred to Sydney Water for concurrence

(Clause 36)

Designated development
Hazardous or offensive industries
Junkyards
Storage of hazardous materials
Tourist facilities

Schedule 6 Development for certain additional purposes

(Clause 37)

Land known as Deposited Plan 803043, Parishes of Uringalla and Wingello, Counties of Argyle and Camden within Zone No 1 (c)—rural residential development, known as Tallong Park Estate.

Land known as Lots Lot 21 in Deposited Plan 708102, Lot 1 in Deposited Plan 775543, Lots 102 and 103 in Deposited Plan 776462, Lots 2 to 29 in Deposited Plan 776463, Lots 30 to 45 in Deposited Plan 785528, Lots 107 to 114 in Deposited Plan 785529, Lots 46 to 63, 65 and 67 in Deposited Plan 790951, Lots 85 to 93 in Deposited Plan 790952, and Lots 2 to 6 in Deposited Plan 801366 Parish of Goulburn, County of Argyle within Zone No 1 (c)—rural residential development, known as Run-O-Waters Estate.

Land known as Lot 2 in Deposited Plan 804586, Lot 1 in Deposited Plan 727596 within Zone No 1 (a), Lot 8 in Deposited Plan 702080, Lots 19 and 21 in Deposited Plan 791620 in Zone No 4 (a), Parish of Marulan, County of Argyle—highway service centre.

Land known as Lots 2, 3 and 4 in Deposited Plan 835933, lying west of Goulburn and adjacent to the Run-O-Waters Estate, Parish of Goulburn and County of Argyle, as shown edged heavy black on Sheet 2 of the map marked "*Mulwaree Local Environmental Plan 1995 (Amendment No 2)*"—subdivision into

21 allotments and the erection of a single dwelling-house on each lot so created.