

# Walcha Local Environmental Plan 2000

[2000-613]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

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

### Authorisation

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

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New South Wales

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# Walcha Local Environmental Plan 2000



New South Wales

## Part 1 Preliminary

### 1 Name of plan

This plan is *Walcha Local Environmental Plan 2000*.

### 2 Aims, objectives etc

The general aims of this plan are:

- (a) to encourage the orderly management, development and conservation of natural and other resources within the local government area of Walcha by protecting, enhancing or conserving:
  - (i) prime crop and pasture land, and
  - (ii) timber, minerals, soil, water and other natural resources, and
  - (iii) areas of significance for nature conservation, and
  - (iv) 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 local government area of Walcha 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, and
  - (ii) facilitates the efficient and effective delivery of amenities and services, and
  - (iii) facilitates a range of residential and employment opportunities in accordance with demand, and
  - (iv) facilitates farm adjustments, and
  - (v) ensures that the efficiency of arterial roads is not adversely affected by development on adjacent land.

### 3 Land to which this plan applies

This plan applies to all land in the local government area of Walcha 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 Walcha*, and
- (b) Walcha Local Environmental Plans Nos 1-4.

### 5 Definitions

(1) In this plan:

**alter** a heritage item, building or work 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 not including maintenance.

**appointed day** means the day on which this plan was exhibited, being 12 October 1995.

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

**arterial road** means any existing road indicated on the map by a continuous red band on white between firm black lines.

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

**Council** means the Council of Walcha.

**demolition** of a heritage item, building, work, relic or place means the damaging, defacing, destroying, pulling down or removal of the heritage item, building, work, relic or place in whole or in part.

**existing holding** means:

- (a) except as provided by paragraph (b), a lot, portion or parcel of land that existed on 12 October 1995, or
- (b) if the same person owned two or more adjoining or adjacent lots, portions or

parcels of land on 12 October 1995 that had been acquired at the same time before that day, the land comprised in those lots, portions or parcels.

**flood liable land** means land liable to be flood inundated at or below the probable maximum flood event or land determined by geomorphological or hydrological methods to be subject to a probable maximum flood.

**forestry** means:

- (a) the planting or establishing of plantations of trees for commercial purposes, or
- (b) the establishment of roads required for the removal of plantation timber or forest products.

**heritage item** means a building, work, relic, tree or place described in Schedule 1.

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

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

- (a) feedlots, and
- (b) piggeries, and
- (c) poultry farms, and
- (d) fish farms (including places used for farming crustaceans and oysters),

but does not include an animal boarding establishment, land used for the keeping of livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of the land, temporary agistment and feeding arrangements during flood or drought, the hand feeding of stud animals or supplementary feeding.

**maintenance** means the ongoing protective care of the existing detail, fabric, finish or appearance of the outside of a heritage item, building or work.

**prime crop and pasture land** means land identified by the Director-General of Agriculture, either by notification to the Council in writing or on a map prepared by or on behalf of the Director-General of Agriculture, as Class 1, Class 2 or Class 3 agricultural land, or as land of merit for special agricultural uses, but does not include land which the Director-General of Agriculture has notified the Council in writing is not prime crop and pasture land for the purposes of this plan.

**relic** means:

- (a) any deposit, object or material evidence (which may consist of human remains) that is more than 50 years old relating to the use or settlement of the local government area of Walcha, not being Aboriginal habitation, or
- (b) any deposit, object or material evidence (which may consist of human remains) of any age relating to Aboriginal habitation of the local government area of Walcha.

**the map** means the set of maps marked “*Walcha Local Environmental Plan 2000*”.

**timber harvesting** means the felling, harvesting, dressing, preparation or processing of plantation trees and other forest products.

**tree** includes a sapling or a shrub.

- (2) In this plan, a reference to destroying a tree includes a reference to ringbarking, cutting down, felling, poisoning, topping, lopping, removing or otherwise injuring a tree.
- (3) In this plan, a reference to a map is a reference to a map deposited in the office of the Council.
- (4) The list of contents of this plan is not part of this plan.

## 6 Adoption of Model Provisions

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

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

are adopted for the purposes of this plan.

## 7 Consent authority

The Council is the consent authority for the purposes of this plan, subject to the *Environmental Planning and Assessment Act 1979*.

## Part 2 Zones

### 8 Zones indicated on the map

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

#### **Zone No 1 (a) (General Rural Zone)**

edged heavy black and lettered “1 (a)”

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

edged heavy black and lettered “2 (v)”

**Zone No 6 (a) (Open Space Zone)**

edged heavy black and lettered “6 (a)”

**Zone No 7 (d) (Environmental Protection—Scenic Zone)**

edged heavy black and lettered “7 (d)”

**Zone No 8 (a) (Existing National Parks and Reserves Zone)**

edged heavy black and lettered “8 (a)”

**9 Zone objectives and development control table**

- (1) The objectives of a zone are set out in the Table to this clause under the heading “Objectives of Zone” appearing in the matter relating to the zone.
- (2) Except as otherwise provided by this plan, in relation to land within a zone specified in the Table to this clause, the development (if any) that:
  - (a) may be carried out without development consent, and
  - (b) may be carried out only with development consent, and
  - (c) is prohibited,is 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, consent must not be granted to the carrying out of development on land to which this plan applies unless the consent authority is of the opinion that carrying out the development is consistent with the objectives of the zone within which the development is proposed to be carried out.

Table

**Zone No 1 (a) (General Rural Zone)**

**1 Objectives of Zone**

The 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, and



- (ii) soil stability, by controlling and locating development in accordance with soil capability, and
  - (iii) forests of existing and potential commercial value for timber production, and
  - (iv) valuable deposits of minerals, coal, petroleum and extractive materials, by controlling the location of development to enable the efficient extraction of those deposits, and
  - (v) trees and other vegetation in areas where the conservation of the vegetation is significant to scenic amenity or natural wildlife habitat or is likely to control land degradation, and
  - (vi) water resources for use in the public interest, and
- (b) preventing the unjustified development of prime crop and pasture land for purposes other than agriculture, and
  - (c) facilitating farm adjustments, and
  - (d) minimising the cost to the community of:
    - (i) fragmented and isolated development of rural land, and
    - (ii) providing, extending and maintaining public amenities and services, and
  - (e) providing land for future urban development and for development for other non-agricultural purposes, in accordance with the need for that development.

## **2 Without Development Consent**

Development for the purpose of:

advertising structures erected in accordance with clause 22 (a);  
agriculture (other than ancillary dwellings and intensive livestock keeping establishments, forestry or timber harvesting).

## **3 Only With Development Consent**

Any development not included in item 2 or 4.

#### **4 Prohibited**

Development for the purpose of:

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

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

#### **1 Objectives of Zone**

The objectives of this zone are:

- (a) to promote development in existing towns and villages in a manner which is compatible with their urban function, and
- (b) to provide for the establishment of a full range of services and facilities associated with a town or village.

#### **2 Without Development Consent**

Development for the purpose of:

advertising structures erected in accordance with clause 22 (a).

#### **3 Only With Development Consent**

Any development not included in item 2 or 4.

#### **4 Prohibited**

Development for the purpose of:

abattoirs; extractive industries; institutions; intensive livestock keeping establishments; junk yards; mines; offensive or hazardous industries.

### **Zone No 6 (a) (Open Space Zone)**

#### **1 Objectives of Zone**

The objectives of this zone are:

- (a) to recognise existing publicly-owned land adjacent to the Walcha Township that is used or capable of being used for recreational purposes, and
- (b) to enable development associated with, ancillary to, or supportive of,

public recreational use, and

(c) to encourage the development of existing publicly-owned land adjacent to the Walcha Township as a major urban landscape element.

## **2 Without Development Consent**

Development for the purpose of:

gardening; maintenance landscaping; minor landscaping works.

## **3 Only With Development Consent**

Development for the purpose of:

recreation.

## **4 Prohibited**

Any development not included in item 2 or 3.

### **Zone No 7 (d) (Environmental Protection—Scenic Zone)**

#### **1 Objectives of Zone**

The objectives of this zone are to protect and preserve the unique landscape and environmental setting of Walcha, particularly the forested hill land above the town. A variety of uses is permissible in the zone, but these will be subject to more particular control, for example, in the choice of building materials, the positioning of a building on its site and the provision of access roads and landscaping.

#### **2 Without Development Consent**

Development for the purpose of:

advertising structures erected in accordance with clause 22 (a);  
agriculture (other than the clearing of land, forestry or timber harvesting).

#### **3 Only With Development Consent**

Any development not included in item 2 or 4.

#### **4 Prohibited**

Development for the purpose of:

abattoirs; bus depots; car repair stations; extractive industries; institutions; intensive livestock keeping establishments; junk yards; liquid fuel depots; mines; motels; offensive or hazardous industries; road transport terminals.

## **Zone No 8 (a) (Existing National Parks and Reserves Zone)**

### **1 Objectives of Zone**

The objective of this zone is to enable development of land that is authorised by or under the *National Parks and Wildlife Act 1974*.

### **2 Without Development Consent**

Any development authorised by or under the *National Parks and Wildlife Act 1974* or any other development ordinarily incidental or ancillary to that development.

### **3 Only With Development Consent**

Nil.

### **4 Prohibited**

Any development not included in item 2.

## **Part 3 Special provisions**

### **10 Considerations for development in Zones Nos 1 (a) and 7 (d)**

- (1) Consent must not be granted to development on land within Zone No 1 (a) or 7 (d) unless the consent authority has taken into consideration, if relevant, the effect of the carrying out of that development on:
  - (a) the present use of the land, the potential use of the land for the purpose of agriculture and the potential of any land which is prime crop and pasture land for sustained agricultural production, and
  - (b) vegetation, timber production, land capability (including soil resources and soil stability) and water resources (including the quality and stability of water courses and ground water storage and riparian rights), and
  - (c) the future recovery, from known or prospective areas, of valuable deposits of minerals, coal, petroleum, sand, gravel or other extractive materials, and
  - (d) the protection of areas of significance for nature conservation or of high scenic or recreational value, and places and buildings of heritage significance, including

Aboriginal relics and places, and

(e) the cost of providing, extending and maintaining public amenities and services to the site of the proposed development, and

(f) future expansion of settlements in the locality.

(2) As well as the matters referred to in subclause (1), the consent authority must take into consideration the relationship of the development to development on adjoining land and on other land in the locality.

(3) Subclause (1) does not apply to development being:

(a) an addition to a building or work, or

(b) development ancillary to development that may be carried out with development consent under this plan, or

(c) the erection of a dwelling-house on an allotment of land created in accordance with this plan for the purpose of a dwelling.

#### **11 Development in Zone No 7 (d)**

(1) Consent must not be granted to development on land within Zone No 7 (d) unless the consent authority is satisfied that the development will not contravene the following requirements:

(a) the colours and finishes of any external materials must be natural in that they blend with the colours of the surrounding land and vegetation,

(b) zincalume, white roofs or similar finishes must not be used,

(c) where practicable, driveways must be tree-lined in order to remove the prominence of the work and to screen the passage of motor vehicles,

(d) fences must be open in form (wire or post and rail) or of similar effect,

(e) fences must remain as natural timber or be a colour which blends in with the surrounding land and vegetation,

(f) where practicable, buildings must be located so as to preserve existing trees,

(g) a vegetation buffer and landscaping, consisting predominantly of indigenous trees and shrubs, must be provided in accordance with subclause (2).

(2) Landscaping must comprise the following:

(a) the planting of indigenous trees and shrubs to screen structures when viewed from other land, with the trees preferably being planted in clusters near property boundaries to provide maximum effectiveness,

- (b) non-indigenous deciduous plants may be used near or around buildings where such plants will be, when the landscaping is mature, less prominent than the native trees and shrubs,
- (c) landscaped areas and plants must be provided with appropriate barriers, such as star picket and wire fencing, timber fencing, tree guards or similar, to prevent stock from damaging the areas and plants.

## **12 Subdivision of land generally**

- (1) A person must not subdivide land to which this plan applies, except with development consent.
- (2) Consent must not be granted to the subdivision of land within Zone No 1 (a) or 7 (d) unless the consent authority has obtained all relevant information in relation to, and made an assessment of, the following:
  - (a) the primary purpose for which each allotment to be created by the subdivision is intended to be used,
  - (b) whether any allotment to be created by the subdivision is intended to be used primarily for the purpose of agriculture,
  - (c) whether a dwelling is intended to be erected on any allotment to be created by the subdivision and the approximate location of any such dwelling.

## **13 Subdivision for the purpose of agriculture in Zones Nos 1 (a) and 7 (d)**

- (1) This clause applies to land within Zone No 1 (a) or 7 (d).
- (2) Subject to subclause (3), consent may be granted to the subdivision of land to which this clause applies so as to create an allotment of any area if the consent authority is satisfied that the allotment is to be used for the purpose of sustained agricultural production.
- (3) Consent must not be granted to the creation of an allotment the consent authority is satisfied will be used for the purpose of agriculture if the allotment has an area of less than 100 hectares and there is a dwelling on the allotment.

## **14 Subdivision for the purpose of dwellings in Zones Nos 1 (a) and 7 (d)**

- (1) Consent may be granted to the excision of one, but not more than one, allotment the consent authority is satisfied will be used for the purpose of a dwelling-house from an existing holding within Zone No 1 (a) or 7 (d), but only if the allotment:
  - (a) has an area of not less than 1 hectare, and
  - (b) forms part of an existing holding which has an area of not less than 400 hectares,

and the creation of the allotment is not likely to adversely affect the existing or potential capability of the land and adjacent land to produce food or fibre or to be used for other agricultural purposes.

- (2) Notwithstanding subclause (1), consent may be granted to the subdivision of land within Zone No 1 (a) or 7 (d) for the purpose of a dwelling-house where:
  - (a) the land does not comprise prime crop and pasture land identified as Class 1 or 2 agricultural land, and
  - (b) the land is within 5 kilometres of the land within Zone No 2 (v) on which Walcha Township is situated.
- (3) Consent to the subdivision of land referred to in subclause (2) or the subsequent erection of a dwelling on each allotment must not be granted unless:
  - (a) each allotment proposed to be created is capable of being connected to a reticulated electricity supply and a telephone service, and
  - (b) each allotment contains sufficient area for the on-site disposal of effluent in accordance with the requirements of the Department of Health, and
  - (c) the consent authority has taken into consideration the desirability of providing a range and mix of allotment sizes, and
  - (d) in the case of land which is located within 2 kilometres of land within Zone No 2 (v) on which Walcha Township is situated and for which reticulated water is available or could be made available:
    - (i) the area of each allotment is not less than 1,000 square metres, where a reticulated sewerage scheme is available, or not less than 2 hectares, in all other cases, and
    - (ii) each allotment will have frontage to a bitumen sealed road with access to Walcha Township and the road will be constructed to the Council's standards for rural roads, and
  - (e) in the case of land which is located within 5 kilometres of land within Zone No 2 (v) on which Walcha Township is situated, and where paragraph (d) does not apply:
    - (i) each allotment proposed to be created will be of sufficient size to enable the provision of an adequate potable water supply and a bulk water supply for fire fighting purposes, and
    - (ii) the area of each allotment is not less than 20 hectares, and
    - (iii) each allotment will have frontage to a bitumen sealed road and the road will be constructed to the Council's standards for rural roads.

- (4) The Council must advise the Director on an annual basis of the number and location of the lots created under this clause. Such lots must not exceed 100 lots over a 5-year period, with an average of not more than 20 lots per year.

**15 Subdivision for the purpose of dwellings in Nowendoc**

- (1) Consent may be granted to the subdivision of land within Zone No 1 (a) for the purpose of a dwelling-house where the land is within a defined area of the Nowendoc Memorial Hall. The defined area is as follows:

From the confluence of the Couatwong Creek and the Nowendoc River generally in a south-easterly direction along the north-eastern bank of the Nowendoc River, then along the western boundaries of Portions 76 and 70, Parish of Couatwong, then along the southern boundary of Portion 34, Parish of Couatwong and then along the south-eastern bank of the Couatwong Creek.

- (2) The minimum area for each allotment is 2 hectares.

**16 Subdivision for other purposes in Zones Nos 1 (a) and 7 (d)**

- (1) Consent must not be granted to a subdivision of land within Zone No 1 (a) or 7 (d) if the consent authority is satisfied that any allotment to be created by the subdivision will be used primarily for the purpose of a land use other than agriculture or the erection of a dwelling, unless, in the opinion of the consent authority:
  - (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 land use for which it is to be created.
- (2) Nothing in subclause (1) prevents consent from being granted to an application to subdivide land to create an allotment that will be used otherwise than for the purpose of a dwelling-house if the consent authority 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, and
  - (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.

**17 Subdivision of land in Zone No 2 (v)**

A person must not subdivide land within Zone No 2 (v) to create an allotment to be used for the purpose of a dwelling-house unless:

- (a) the allotment has an area of 700 square metres or more and has access to a



reticulated water and sewerage scheme, or

- (b) the allotment has an area of not less than 1,000 square metres for on-site disposal of waste or such greater area as the consent authority may consider necessary for adequate on-site disposal of waste.

#### **18 Dwellings in Zones Nos 1 (a) and 7 (d)**

- (1) A person must not erect a dwelling on vacant land within Zone No 1 (a) or 7 (d) unless:

- (a) the land has an area of 100 hectares or more, or

- (b) the land comprises:

- (i) an existing holding, or

- (ii) an allotment created by subdivision in accordance with clause 16 (2), but only if the consent authority is satisfied that a demonstrated need exists for the dwelling based on the commercial viability of the parcel of land as an agricultural holding, or

- (iii) an allotment created under this plan otherwise than for the purpose of agriculture, or

- (iv) an allotment created in accordance with a consent granted before the appointed day, being an allotment on which a dwelling could have been erected immediately before the appointed day.

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

#### **19 Replacement of existing dwelling-house**

A dwelling-house may, with development consent, be erected on an allotment of land to which this plan 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 Erection of additional dwellings in Zones Nos 1 (a) and 7 (d)**

- (1) Consent may be granted to the erection of one additional dwelling on land within Zone No 1 (a) or 7 (d) (or to the alteration of an existing dwelling to create two dwellings) where:

- (a) a dwelling could be erected on the land in accordance with clause 18 if the land were vacant, and

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

- (c) in the opinion of the consent authority, the dwelling to be erected or created on

the land will not interfere with the purpose for which the land is being used.

- (2) Consent must not be granted to the subdivision of land on which one additional dwelling is erected in pursuance of this clause except under this plan.

## **21 Applications that must be advertised**

The provisions of sections 79 and 79C of the Act apply to and in respect of development specified in Schedule 2 in the same way as those provisions apply to and in respect of designated development.

## **22 Advertising structures**

A person may erect an advertising structure:

- (a) without development consent, only where the advertisement on or to be placed on the structure indicates or is to indicate:
- (i) the purpose for which premises on the land are, or are to be, used, or
  - (ii) the goods or services sold or provided from premises on the land, or
  - (iii) that premises on the land are available for sale or are available for lease, or
- (b) only with development consent, if the advertising structure is to be used for displaying an advertisement indicating the location of local commercial services, tourist facilities or places of historic, scientific or scenic interest and the consent authority is satisfied that the advertising structure will not interfere with the amenity of the area.

## **23 Development along arterial roads**

Consent must not be granted to 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 consent authority, the safety and efficiency of the arterial road will not be adversely affected by:
- (i) the design of the access to the proposed development, or
  - (ii) the emission of smoke or dust from the proposed development, or
  - (iii) the nature, volume or frequency of vehicles that will be using the arterial road to gain access to the proposed development.

## **24 Flood liable land**

A person must not erect a building or carry out a work for any purpose on flood liable land, except with development consent.

## **25 Land subject to bush fire hazards**

Consent must not be granted to the subdivision of land or to the erection of a building on land which is subject to bush fire hazards by reason of vegetation on the land or on any adjacent land unless, in the opinion of the consent authority:

- (a) adequate provision is made for access for firefighting vehicles, and
- (b) adequate safeguards are adopted in the form of firebreaks, reserves and fire radiation zones, and
- (c) adequate water supplies are available for firefighting purposes.

## **26 Dual occupancy**

- (1) This clause applies to land within Zone No 2 (v) in the Township of Walcha.
- (2) Where, in pursuance of this plan, development for the purpose of a dwelling-house may be carried out on an allotment of land to which this clause applies, a person may, with development consent:
  - (a) alter or add to a dwelling-house erected on the allotment so as to create two dwellings, or
  - (b) erect an additional dwelling-house so as to create two dwellings, or
  - (c) erect two dwelling-houses.
- (3) Consent must not be granted as provided by subclause (2) unless:
  - (a) the area of the allotment is not less than 700 square metres, and
  - (b) the consent authority is satisfied that arrangements satisfactory to it have been made for the provision of a water supply and for the disposal of sewage and stormwater drainage from the land, and
  - (c) the consent authority is satisfied that adequate provision is made for access to natural light for each dwelling and that each dwelling has an adequate private outdoor recreation area.

## **27 Heritage aims**

The aims of this plan in relation to heritage are as follows:

- (a) to conserve the environmental heritage of the land to which this plan applies, and

- (b) to integrate heritage conservation into the planning and development control processes, and
- (c) to provide for public involvement in the matters relating to the conservation of the area's environmental heritage, and
- (d) to ensure that new development is undertaken in a manner that is sympathetic to, and does not detract from, the heritage significance of heritage items and their settings, as well as streetscape and landscapes and the distinctive character that they impart to the land to which this plan applies.

## **28 Heritage items**

- (1) A person must not, in respect of a building, work, relic, tree or place that is a heritage item:
  - (a) demolish or alter the building or work, or
  - (b) damage or move the relic, or
  - (c) excavate for the purpose of exposing the relic, or
  - (d) damage or despoil the place or tree, or
  - (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, unless in the course of routine maintenance of gardens,except with development consent.
- (2) Consent must not be granted to a development application required by subclause (1) unless the consent authority has taken into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item and any stylistic or horticultural features of its setting.

## **29 Development in the vicinity of heritage items**

Consent must not be granted to development on land in the vicinity of a heritage item unless the consent authority 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.

## **30 Heritage advertisements and notifications**

- (1) Except as provided by this clause, the provisions of sections 79 and 79C of the Act apply to and in respect of the demolition of a heritage item in the same way as those provisions apply to and in respect of designated development.

- (2) Consent must not be granted to the demolition of a heritage item unless the consent authority:
  - (a) has notified the Heritage Council of its intention to grant consent, and
  - (b) has taken into consideration any comments received from the Heritage Council within 28 days of that Council's being notified.
- (3) This clause does not apply to the partial demolition of a heritage item if, in the opinion of the Council, the partial demolition will be of a minor nature and will not adversely affect the heritage significance of the heritage item, building or work in relation to the environmental heritage of the land to which this plan applies.

### **31 Conservation incentives**

- (1) Nothing in this plan prevents consent from being granted to the use, for any purpose, of a building that is a heritage item or the land on which any such building is erected, if the consent authority is satisfied that:
  - (a) the use would have little or no adverse effect on the heritage significance of the building or the land on which the building is erected, and
  - (b) conservation of the building depends on the granting of consent as provided by this subclause.
- (2) When considering a development application for consent to erect a building on land on which there is situated a building which is a heritage item, the consent authority may, for the purpose of determining:
  - (a) the floor space ratio, and
  - (b) the number of parking spaces to be provided on the site,exclude from its calculation of the floor space of the buildings erected on the land the floor space of the item, but only if the consent authority is satisfied that the conservation of the item depends on making that exclusion.

### **32 Access**

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

### **33 Development for certain additional purposes**

- (1) Nothing in this plan prevents a person, with development consent, from carrying out development on land referred to in Schedule 3 that is specified in that Schedule in relation to that land, subject to such conditions, if any, as are so specified.
- (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 in respect of the development.

## Schedule 1 Heritage items

(Clause 5 (1))

### Walcha Village

Walcha Court House	Lot 7, Section 14, 2W Apsley Street, cnr Derby Street
Old Cottage and Surgery	Lot 14, DP 802134, 114W Apsley Street
Commercial Hotel	Lot 21, DP 576832, Commercial Lane, cnr Meridian Street
St Paul's Presbyterian Church and Fletcher Memorial Hall	Lot 305, DP 241564, 8E Hill Street
Walcha Memorial Club (formerly CBC Bank)	Lot 1, 67W Fitzroy Street, cnr Meridian Street
Old Walcha Primary School	Lot 2, DP 842140, 106E Fitzroy Street, cnr Middle Street
Fenwicke House/Gallery	Lot 2, DP 574019, 23E Fitzroy Street
Cottage	Lot 1, DP 799512, 63W Fitzroy Street
Cottage	Lot A, DP 159627, 2N Middle Street, cnr Fitzroy Street
Former Principal's Residence	Lot 1, DP 842140, 3S Middle Street
Cottage	Pt Lot 18, 17N South Street
Blair's Cottage	Pt Lot 18, 19N South Street
Former St Andrew's Anglican Church	Lots 12-15, DP 759035, South Street
Former St Andrew's Rectory (The Vicarage)	Lot 24, DP 703627, 1N Thee Street, cnr Fitzroy Street

### Rural

Betts Farm (Irish Town)	Portion 346, DP 756502, Parish of Walcha, Uralla Road
"Emu Creek"	Portions 1 and 2, Parish of Emu, Emu Creek Road
"Oorandumbie"	Lot 173, DP 722465, Parish of Andy, Gloucester Road
"Langford"	Lot 43, DP 832299, Parish of Walcha, Gloucester Road
"Torsmond" (formerly The Old Manse)	Lot 21, DP 979443, Parish of Walcha, Gloucester Road

“Europambela” Group

- Europambela Homestead
- The Cottage
- Woolshed
- Shearers’ Quarters
- Racecourse Buildings
- Fenwicke Family Cemetery

Portions 1 and 69, Parish of Europambela and Portions 1 and 67–69, Parish of Waterloo, Moona Plains Road

“Ohio”

- Ohio Homestead Cemetery
- Ohio Homestead Cemetery Lone Grave

Lot 1, DP 737751, Parish of Walcha, Ohio Road—north of Walcha

Winterbourne Ruins

Portion 1, Parish of Winterbourne, Winterbourne Road

Walcha General Cemetery

Darjeeling Road, 2 km west of Walcha

Walcha Catholic Cemetery

cnr Oxley Highway

## Schedule 2 Applications that must be advertised

(Clause 21)

Development for the purpose of:

- (a) boarding-houses; hotels; motels; places of public worship, or
- (b) industries, other than rural industries, in Zone No 1 (a) or 7 (d), or
- (c) intensive livestock keeping establishments; junk yards; liquid fuel depots; sawmills; stock and sale yards.

## Schedule 3 Development for certain additional purposes

(Clause 33)

Portions 547 and 552, Parish of Walcha, County of Vernon, Emu Creek Road, Walcha      Aboriginal housing