

Culcairn Local Environmental Plan 1998

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New South Wales

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Provisions in force

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

Notes—

- **See also**
[Statute Law \(Miscellaneous Provisions\) Bill \(No 2\) 2004](#)

Authorisation

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New South Wales

Contents

Part 1 Preliminary	4
1 Name of plan	4
2 Aims, objectives etc.....	4
3 Land to which plan applies	5
4 Relationship to other environmental planning instruments	5
5 Interpretation	6
6 Adoption of model provisions	9
7 Consent authority	9
Part 2 Zones	9
8 Zones indicated on the map	9
9 Zone objectives and development control table.....	10
Part 3 Special provisions	16
9A What is exempt and complying development?	16
10 General considerations for development within rural zones.....	17
11 Considerations for development within rural and village zones	18
12 Subdivision of land generally.....	18
13 Subdivision of land within Zone No 1 (a)	18
14 Subdivision of land for the purpose of agriculture within Zone No 1 (a).....	19
15 Subdivision for other purposes within Zone No 1 (a).....	19
16 Subdivision for the purpose of dwelling-houses within Zone No 1 (c)	20
17 Subdivision of land within Zone No 2 (v)	20
18 Subdivision without consent.....	21

19 Dwelling-houses within Zone No 1 (a)	21
20 Dwelling-houses within Zone No 1 (c)	21
21 Creation of additional dwellings within Zones Nos 1 (a) and 1 (c).....	21
22 Dwelling-houses on land fronting certain roads within Zone No 1 (a)	22
23 Dwelling-houses on existing allotments within Zone No 2 (v)	22
24 Applications that must be advertised	22
25 Development along arterial roads	22
26 Environmentally sensitive land.....	23
27 Land prone to flooding.....	24
28 Land subject to potential bush fire hazards.....	25
29 Protection of heritage items, heritage conservation areas and relics referred to in Schedule 1.....	25
30 Notice of certain heritage development applications	26
31 Notice to the Heritage Council.....	26
32 Development of known or potential archaeological sites	26
33 Development in the vicinity of heritage items, heritage conservation areas, archaeological sites, potential archaeological sites or potential Aboriginal relics or places	27
34 Conservation incentives	27
35 Access	27
36 Development near zone boundaries.....	27
37 Community use of school facilities and sites	28
38 Development for the purpose of outdoor advertisements.....	28
39 Classification and reclassification of public land as operational land	31
Schedule 1 Heritage items and conservation areas	32
Schedule 2 Arterial roads.....	33
Schedule 3 Advertised development.....	34
Schedule 4 Development restricted along arterial roads	34
Schedule 5 Advertisements allowed with consent.....	35
Schedule 6 Classification and reclassification of public land as operational land	38

Culcairn Local Environmental Plan 1998



New South Wales

Part 1 Preliminary

1 Name of plan

This plan is called *Culcairn Local Environmental Plan 1998*.

2 Aims, objectives etc

The general aims of this plan are:

- (a) to encourage the proper management, utilisation, development and conservation of natural and other resources within the local government area of Culcairn 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, including wildlife corridors and important habitat for threatened species, and
 - (iv) areas of high scenic or recreational value, and
- (b) in relation to environmental heritage:
 - (i) to conserve the environmental heritage of the local government area of Culcairn, and
 - (ii) to integrate heritage conservation into the planning and development control processes, and
 - (iii) to provide for public involvement in matters relating to the conservation of the environmental heritage of the local government area of Culcairn, and
 - (iv) to ensure that any development does not adversely affect the heritage significance of heritage items and their settings, as well as streetscapes and landscapes of village and rural areas and the distinctive character that they impart to the local government area of Culcairn, and

- (c) to ensure that outdoor advertising:
 - (i) conveys advertisers' messages and images while complementing and conforming to both the structures on which it is displayed and the character of the surrounding locality, and
 - (ii) does not adversely affect the area in which it is located in terms of appearance, size, illumination, overshadowing or in any other way, and
 - (iii) does not lead to visual clutter through the proliferation of signs, and
- (d) to replace the existing planning controls with a single local environmental plan to help facilitate growth and development of the local government area of Culcairn in a manner which is consistent with the aims specified in paragraph (a) and which:
 - (i) minimises the costs to the community of fragmented and isolated development of rural land, and
 - (ii) facilitates the efficient and effective provision 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, and
- (e) to give the Council greater responsibility for environmental planning by creating a broad framework of controls and to create opportunity for the more detailed provisions relating to matters of significance only for local environmental planning to be contained in development control plans made by the Council, and
- (f) to maintain the opportunity for public involvement and participation in the environmental planning and assessment process.

3 Land to which plan applies

This plan applies to all land within the local government area of Culcairn as shown on the map, with the boundaries as indicated on the map.

4 Relationship to other environmental planning instruments

Interim Development Order No 1—Shire of Culcairn and such local environmental plans and other deemed environmental planning instruments as, immediately before the appointed day, applied to the land to which this plan applies, 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. It also includes horticulture and infrastructure reasonably necessary for those uses, but does not include:

- (a) the erection of dwellings or other buildings (except farm buildings) specifically defined in this clause, or
- (b) the use of land for the purpose of an intensive livestock keeping establishment, or
- (c) the use of land for the purpose of a rural industry as defined by the *Environmental Planning and Assessment Model Provisions 1980*.

animal boarding establishment means a building or place used for the purpose of boarding animals for fee or reward and includes a veterinary clinic.

animal breeding or training establishment means a building or place used for the purpose of breeding or training animals for fee or reward, otherwise than in the course of agriculture, and includes a building or place used as a riding school, but does not include an animal boarding establishment.

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

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

bush fire hazard reduction means a reduction or modification (by controlled burning or mechanical or manual means) of material that constitutes a bush fire hazard.

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

Council means the Council of the local government area of Culcairn.

demolish a heritage item or a building, work, relic, tree or place within a heritage conservation area means wholly or partly destroy or dismantle the heritage item or building, work, relic, tree or place.

dual occupancy means a building or group of buildings containing 2 dwellings only, situated on one allotment of land.

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

existing holding means:

- (a) except as provided by paragraph (b)—the area of a lot, portion or parcel of land as it was at 30 July 1976, or
- (b) if, as at 30 July 1976, a person owned 2 or more adjoining or adjacent lots, portions or parcels of land, the combined area of those lots, portions or parcels as they were at 30 July 1976.

farm building means a building ancillary to an agricultural activity, such as a shearing shed, machinery shed, silo or stockyard, but does not include a dwelling.

forestry includes arboriculture, silviculture, forest protection and the cutting, dressing and preparation (otherwise than in a sawmill) of wood and other forest products and the establishment of roads required for the removal of wood and forest products and for forest protection, but does not include the planting of trees for wind breaks or firewood, or for other purposes incidental to farming.

heritage conservation area means land described in Part 2 of Schedule 1 and shown by diagonal hatching on the map and includes buildings, works, relics, trees and places situated on or within that land.

heritage item means a building, work, relic, tree or place (which may or may not be situated on or within land that is a heritage conservation area) described in Part 1 of Schedule 1, and as shown on the map.

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) feed lots, 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 breeding or training establishment or land used for the keeping livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of the land or land used temporarily for intensive feeding of livestock following a natural disaster such as a flood, fire, or drought.

land degradation means the decline in the quality of natural land resources, caused

through the improper use of the land by humans.

parcel means two or more adjoining or adjacent lots of Portions in the same ownership.

potential Aboriginal relic or place means a site or location known to the consent authority to have Aboriginal archaeological potential and includes strams, ephemeral strams, area within 200 metres of stream banks, swamps and wetlands, prior strams, bushland and road reserves.

potential archaeological site means a site or location known to the consent authority to have archaeological potential or significance.

prime crop and pasture land means land identified, on a map prepared by or on behalf of the Director-General of the Department of Land and Water Conservation, as Class I, Class II or Class III land or as land of merit for special agricultural uses, but does not include land which the Director-General of the NSW Agriculture has notified the Council in writing is not prime crop and pasture land for the purposes of this plan.

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

but does not include a racecourse.

relic means any deposit, object or material evidence relating to:

- (a) the use or settlement of the local government area of Culcairn, not being Aboriginal habitation, which is more than 50 years old, or
- (b) Aboriginal habitation of the local government area of Culcairn commencing before and continuing after its occupation by persons of European extraction, including human remains.

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

- (a) the making of structural changes to the inside or outside of the building or work, or
- (b) the making of non-structural changes to the fabric or appearance of the outside of the building or work, including changes that involve the repair or the painting, plastering or other decoration of the outside of the building or work.

stock yard (farm) means a building or place where stock are held before and after transport and prior to and during other stock husbandry practices, but does not include a stock and sale yard.

the map means the map marked “*Culcairn Local Environmental Plan 1998*” as amended by the maps (or specified sheets of maps) marked as follows:

tree includes a sapling or a shrub.

tree farming includes the planting of trees for wind breaks, firewood or other purposes incidental to agriculture.

vacant land means land on which no dwelling-house is erected.

- (2) In this plan, a reference to the destruction of a tree is a reference to the ringbarking, cutting down, felling, poisoning, topping, lopping, removing or otherwise destroying or injuring of 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 **advertising structure, advertisement, agriculture, arterial road, forestry, map** and **tourist facilities** 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.

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)—edged heavy black and lettered “1 (a)”.

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 8 (a) (National Parks, Nature Reserves and State Recreation Areas)—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 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:
 - (a) the development that may be carried out without development consent, and
 - (b) the development that may be carried out only with development consent, and
 - (c) the development that 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, the Council must not grant consent to the carrying out of development on land to which this plan applies unless the Council is of the opinion that the carrying out of the development is consistent with the objectives of the zone within which the development is proposed to be carried out.

Development Control Table

1 Zones and Zone Objectives	2 Without Development Consent	3 Only with Development Consent	4 Prohibited
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Zone No 1 (a) (General Rural)

The objective of this zone is to promote the proper management and utilisation of resources by:

- (a) protecting, enhancing and conserving:
 - (i) prime crop and pasture 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 for other purposes in order to ensure the efficient extraction of those deposits, and Aboriginal

Development for the purpose of:
agriculture; farm buildings (other than farm buildings and stock yards (farm) within 50 metres of a public road boundary or within 400 metres of land within Zone No 2 (v)); periodic public entertainment; tree farming.

Any development not included in Column 2 or 4.

Development for the purpose of:
motor showrooms; residential flat buildings; shops (other than general stores not exceeding 100 square metres in gross floor area).

- relics and places,
and
- (v) trees and other vegetation in environmentally sensitive areas where the conservation of the vegetation is significant to scenic amenity or natural wildlife habitat or is likely to control land degradation, and
 - (vi) water resources for use in the public interest, and
 - (vii) areas of significance for nature conservation, including areas with rare plants, wetlands and significant habitat, and
 - (viii) places and buildings of archaeological or heritage significance, including the protection of Aboriginal relics and places, and
- (b) facilitating farm adjustments, and
- (c) 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

- (d) 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.

Zone No 1 (c) (Rural Small Holdings)

The objectives of this zone are:

- (a) to promote development of land identified as suitable for:
 - (i) rural residential or hobby farm development, or
 - (ii) a range of light industrial and agricultural land uses which are compatible with the environmental capabilities of the land and which are unlikely to adversely affect land or other development in the vicinity, and
- (b) to protect, enhance and conserve areas of significance for nature conservation, including areas with rare plants, wetlands and significant habitat.

Development for the purpose of:
agriculture; tree farming.

Any development not included in Column 2 or 4.

Development for the purpose of:

abattoirs; animal boarding establishments; boarding-houses; bulk stores; caravan parks; car repair stations; commercial premises; extractive industries; forestry; heliports; hotels; industries (other than home industries or rural industries); institutions; junk yards; liquid fuel depots; manufactured housing estates; materials recycling yards; mines; motels; motor showrooms; offensive or hazardous industries; residential flat buildings; road transport terminals; sawmills; service stations; shops (other than general stores); stock and sale yards; transport terminals; warehouses.

Zone No 2 (v) (Village)

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 protect and conserve places and buildings of archaeological or heritage significance.

Nil.

Any development not included in Column 4.

Development for the purpose of:

animal boarding and breeding establishments; extractive industries; institutions; intensive livestock keeping establishments; junk yards within 90 metres of a main or an arterial road; liquid fuel depots; mines; offensive or hazardous industries; road transport terminals; saw mills; stock and sale yards.

Zone No 8 (a) (National Parks, Nature Reserves and State Recreation Areas)

The objectives of this zone are:

- (a) to identify land which is reserved or dedicated under the [National Parks and Wildlife Act 1974](#), and
- (b) to allow for the management and appropriate use of that land as provided for in the [National Parks and Wildlife Act 1974](#).

Development authorised by or under the [National Parks and Wildlife Act 1974](#) and development incidental or ancillary to authorised development.

Nil.

Any development not included in Column 2.

Part 3 Special provisions

9A What is exempt and complying development?

- (1) Development of minimal environmental impact listed as exempt development in Schedule 1 to *Development Control Plan No 1—Local Government Area of Culcairn*, as adopted by the Council on 16 November 1999, is **exempt development**, despite any

other provision of this plan.

- (2) Development listed as complying development is Schedule 2 to *Development Control Plan No 1—Local Government Area of Culcairn*, as adopted by the Council on 16 November 1999, is **complying development** if:
 - (a) it is local development of a kind that can be carried out with consent on the land on which it is proposed, and
 - (b) it is not an existing use, as defined in section 106 of the Act.
- (3) Development is exempt or complying development only if it complies with development standards and other requirements applied to the development by *Development Control Plan No 1—Local Government Area of Culcairn*, as adopted by the Council on 16 November 1999.
- (4) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in *Development Control Plan No 1—Local Government Area of Culcairn*, as adopted by the Council, as in force when the certificate is issued.

10 General considerations for development within rural zones

- (1) The Council must not grant consent for development on land within Zone No 1 (a) or 1 (c) unless it has taken into consideration, if relevant, the effect of the carrying out of the proposed development on:
 - (a) the present use of the land, the potential use of the land for the purpose of agriculture and the potential for sustained agricultural production of any of the land which is prime crop and pasture land, 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 archaeological or 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 development, and
 - (f) the future expansion of settlements in the locality.
- (2) Subclause (1) does not apply to development:

- (a) that the Council is satisfied is a minor addition to a building or work, or
 - (b) that is ancillary to a land use which may be carried out with the consent of the Council, or
 - (c) being the erection of a dwelling-house on an allotment of land created in accordance with this plan for the purpose of a dwelling.
- (3) The Council must consider the issues in relation to the general environs of the land and not only in relation to the specific site, with particular regard to (but not limited to) the cumulative impacts occurring as a result of other activities existing or known by the Council to be proposed in the locality.

11 Considerations for development within rural and village zones

The Council must not grant consent for any development unless it has taken into account the protection of areas of high scenic or recreation value and of places and buildings of archaeological or heritage significance, including Aboriginal relics and places.

12 Subdivision of land generally

- (1) A person may subdivide land to which this plan applies, but only with the consent of the Council.
- (2) The Council must not grant consent to the subdivision of land within Zone No 1 (a) or 1 (c) 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, and
 - (ii) minimising the creation of vehicular access points to main or arterial roads, and
 - (iii) the location in a safe position of vehicular access points to the allotment, and
 - (b) whether the subdivision will create or increase the potential for ribbon development along any road, particularly a main or arterial road, and
 - (c) whether the provision of services and the physical land capability for on-site waste water disposal will be satisfactory and economic.

13 Subdivision of land within Zone No 1 (a)

- (1) This clause applies to land within Zone No 1 (a).
- (2) The Council must not consent to the subdivision of land to which this clause applies unless it has obtained all relevant information in relation to:

- (a) the primary purpose for which each allotment is intended to be used, and
- (b) the approximate location of any dwelling erected on the land as at the date of the application for consent.

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

- (1) This clause applies to land within Zone No 1 (a).
- (2) The Council may consent to the creation of an allotment of any area for the purpose of agriculture.
- (3) The Council must not consent to the creation of an allotment for the purpose of agriculture if the allotment has an area of less than 250 hectares and there is a dwelling on the allotment.
- (4) Despite subclause (3), the Council may consent to the subdivision of an existing holding of 100 hectares or more to excise one allotment occupied by a dwelling-house that was on the land at the appointed day. Such an allotment must have an area of not less than 2 hectares and not more than 10 hectares.

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

- (1) This clause applies to land within Zone No 1 (a).
- (2) The Council may consent to the subdivision of land otherwise than for the purpose of agriculture or a dwelling only where it is satisfied that:
 - (a) the land to be subdivided is not prime crop and pasture land and its subdivision and subsequent development is unlikely to adversely affect the agricultural production potential of other land, and
 - (b) the area of each allotment to be created by the subdivision is appropriate having regard to the purpose for which it is being created, and
 - (c) an assessment has indicated that any adverse environmental impact that is likely to result from the use of the land after it is subdivided on potential sites of buildings or works, on any potential Aboriginal relic or place or on environmentally sensitive land will not be significant.
- (3) Nothing in subclause (2) prevents the Council from granting consent to an application 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, 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 justify the creation of the allotment despite its agricultural value.

16 Subdivision for the purpose of dwelling-houses within Zone No 1 (c)

- (1) The Council may consent to the subdivision of land within Zone No 1 (c) if the area of each allotment to be created is 2 hectares or more.
- (2) When considering the size and number of allotments to be created by a subdivision of land within Zone No 1 (c), the Council must take 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, and
 - (b) the desirability of providing a range and mixture of allotment sizes, and
 - (c) whether the design of each allotment to be created by the subdivision is satisfactory for the economic provision of services and the physical suitability of the allotment for on-site disposal of wastes, and
 - (d) the visual impact from arterial roads of the development likely to be carried out on the allotment, and
 - (e) whether an adequate water supply is available to each allotment.

17 Subdivision of land within Zone No 2 (v)

- (1) The Council may consent to the subdivision of land within Zone No 2 (v) to create an allotment to be used for the purpose of a dwelling-house only if the allotment has an area of 700 square metres or more, in the case of an allotment in a sewered area, or 2,000 square metres or more, in the case of an allotment in an unsewered area.
- (2) Despite subclause (1), the Council may consent to a subdivision of land within Zone No 2 (v) to create allotments in unsewered areas of less than 2,000 square metres, but not less than 1,000 square metres, but only where the Council has available to it a detailed analysis including consideration of:
 - (a) slope, and
 - (b) ground cover, and
 - (c) soil permeability, and
 - (d) transpiration factors, and
 - (e) proximity of proposed dwellings to flow lines, and
 - (f) the location of proposed dwellings in relation to proposed septic systems and to

each other,

and the Council is satisfied that effluent from each such allotment can be adequately managed.

- (3) The Council may consent to a subdivision of land in a sewerred area creating an allotment of less than 700 square metres that will be used for any permissible development (except for buildings providing residential accommodation for any duration or of any type) where the Council is satisfied that such an allotment is appropriate having due regard to the purpose for which it is being created.

18 Subdivision without consent

Nothing in this plan prohibits or restricts a subdivision of land in Zone No 1 (a), 1 (c) or 2 (v) for the purpose of any of the following:

- (a) the opening or widening of a public road,
- (b) minor adjustments to common property boundaries,
- (c) to rectify any encroachment on an existing allotment,
- (d) to enlarge the area of an existing holding by amalgamating that existing holding with one or more other existing holdings.

19 Dwelling-houses within Zone No 1 (a)

The Council may consent to a dwelling-house on land within Zone No 1 (a) only if the land is vacant and:

- (a) has an area of 250 hectares or more, or
- (b) comprises:
 - (i) an existing holding, or
 - (ii) 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, or
 - (iii) an allotment of less than 250 hectares created under clause 14 (4).

20 Dwelling-houses within Zone No 1 (c)

The Council may consent to the erection of a dwelling-house on land in Zone No 1 (c) only if the land is vacant land and has an area of not less than 2 hectares.

21 Creation of additional dwellings within Zones Nos 1 (a) and 1 (c)

- (1) A person may, with the consent of the Council, create not more than one additional

dwelling on an allotment of land within Zone No 1 (a) or 1 (c) (whether by the erection of a new dwelling or the alteration of an existing building to create 2 dwellings) if:

- (a) a dwelling could be erected on the land in accordance with clause 19 or, where applicable, clause 20 if the land were vacant, and
 - (b) no additional access to a public road will be required from the land because there will be 2 dwellings on it, and
 - (c) separate ownership of the proposed dwelling or dwellings could be achieved only by a subdivision of the land in accordance with this plan, and
 - (d) in the opinion of the Council, 2 dwellings on the land will not interfere with the purpose for which the land is being used.
- (2) The Council must not consent to the subdivision of land on which an additional dwelling is created in pursuance of this clause except in accordance with this plan.
- (3) The Council must not grant a consent pursuant to this clause that may result in the existence on a piece or parcel of land of more than 2 dwellings.

22 Dwelling-houses on land fronting certain roads within Zone No 1 (a)

- (1) This clause applies to land having frontage to a road listed in Schedule 2.
- (2) The Council must not grant consent to the erection of a dwelling-house on land to which this clause applies unless:
- (a) the dwelling-house is erected more than 100 metres from the road boundary, or
 - (b) screen planting is provided, where the dwelling-house is to be located not more than 100 metres from the road boundary.

23 Dwelling-houses on existing allotments within Zone No 2 (v)

The Council may consent to the erection of a dwelling-house on land within Zone No 2 (v) if the land is vacant and comprises an allotment created in accordance with a consent granted before the appointed day, being an allotment on which a dwelling-house could have been erected immediately before the appointed day.

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 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 grant consent for development on land which has frontage to an

arterial road listed in Schedule 2 only if, in the opinion of the Council, the safety and efficiency of the arterial road will not be adversely affected by:

- (a) the design of the access to the proposed site of the development, or
- (b) the emission of smoke or dust from the proposed development, or
- (c) the nature, volume or frequency of vehicles using the arterial road to gain access to the proposed development.

(2) The Council must not consent to the carrying out of development listed in Schedule 4 on land within Zone No 1 (a) if the proposed development will have direct access:

- (a) to an arterial road, or
- (b) to a road connecting with an arterial road, where the access to that road is within 90 metres (measured along the road alignment of the connecting road) of the alignment of the arterial road.

26 Environmentally sensitive land

(1) In this clause, **to clear land** means to remove trees and other vegetation or bush rock from the land, but does not include the eradication of noxious plants.

(2) A person must not carry out development on environmentally sensitive land for the purpose of:

- (a) forestry, or
- (b) intensive livestock keeping establishments, or
- (c) junk yards, or
- (d) liquid fuel depots, or
- (e) offensive or hazardous industries, or
- (f) sawmills, or
- (g) stock and sale yards, or
- (h) extractive industries.

(3) A person must not clear environmentally sensitive land for any purpose except with the consent of the Council.

(4) The Council must not grant consent to the clearing of environmentally sensitive land unless:

- (a) in the opinion of the Council, the clearing will be carried out in a manner that:

- (i) minimises the risk of soil erosion or other land degradation, and
 - (ii) minimises the loss of scenic amenity, and
 - (b) where the clearing will result in the destruction of significant vegetation systems and natural wildlife habitats, the Council is satisfied that the destruction of those systems and habitats has been assessed as having no significant environmental impact, and
 - (c) the area to be cleared does not exceed 1 hectare or does not exceed 5% of the area of such of the land as is environmentally sensitive land, whichever is less.
- (5) The Council must not grant consent to development which is likely to have a significant adverse impact on environmentally sensitive land unless it has notified the Director-General of National Parks and Wildlife of the proposal and taken into consideration any comments received from the Director-General within 14 days after the notice was sent.
- (6) The Council must not consent to development on land within a road reserve which has the potential to result in a significant adverse impact on wildlife habitat, unless the destruction of significant vegetation systems and natural wildlife habitats or potential archaeological sites has been assessed as having no significant adverse impact.

27 Land prone to flooding

- (1) The Council must not consent to the carrying out of development on land which it considers to be prone to flooding if:
- (a) the development is likely to:
 - (i) restrict the flow of water on the land or on adjoining land, or
 - (ii) endanger life in time of flood, or
 - (iii) worsen the impact of flood water through erosion, siltation or the destruction of vegetation, or
 - (iv) have an adverse effect on the water table of the land or other land in the vicinity, or
 - (b) any structural member of a building or work the subject of the development will not be capable of withstanding flooding.
- (2) The Council must also take into consideration, when deciding whether to grant consent to or refuse a development application that involves land which it considers to be prone to flooding:
- (a) the cumulative effect the development will have on flood behaviour, and

- (b) the risk of pollution to waterways from the proposed development, and
- (c) whether access to the site of the proposed development will be available in times of flood.

28 Land subject to potential bush fire hazards

The Council must not grant consent to the subdivision of land (except for boundary adjustments) or to the erection of a building on land that is considered by the Council to be a medium to high bush fire hazard by reason of the vegetation on the land or on any adjacent land following an assessment of the land by the Council unless, in the opinion of the Council:

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

29 Protection of heritage items, heritage conservation areas and relics referred to in Schedule 1

- (1) The following development may be carried out only with development consent:
 - (a) demolishing, defacing, damaging or moving a heritage item or a building, work, relic, tree or place within a heritage conservation area, or
 - (b) altering a heritage item or a building, work or relic within a heritage conservation area by making structural changes to its exterior, or
 - (c) altering a heritage item or a building, work or relic within a heritage conservation area by making non-structural changes to the detail, fabric, finish or appearance of its exterior, except changes resulting from any maintenance necessary for its ongoing protective care which does not adversely affect its heritage significance, or
 - (d) moving a relic, or excavating land for the purpose of discovering, exposing or moving a relic, or
 - (e) erecting a building on or subdividing land on which a heritage item is located or which is within a heritage conservation area.
- (2) Development consent is not required by this clause if the Council is of the opinion that the proposed development would not adversely affect the heritage significance of the heritage item or heritage conservation area concerned.
- (3) When determining a development application required by this clause, the Council must take into consideration the extent to which the carrying out of the proposed

development would affect the heritage significance of the heritage item or heritage conservation area.

30 Notice of certain heritage development applications

Sections 84, 85, 86, 87 (1) and 90 of the Act (which provide for the giving of notice, and for the making and consideration of submissions, about proposed development) apply to the demolishing, defacing or damaging of a heritage item or a building, work, relic, tree or place within a heritage conservation area (and to the use of a building or land referred to in clause 34 (1) for a purpose which, but for that clause, would be prohibited by this plan) in the same way as those provisions apply to designated development.

31 Notice to the Heritage Council

Before granting development consent to the demolishing, defacing or damaging of a heritage item, the Council must notify the Heritage Council of its intention to do so and take into consideration any comments received from the Heritage Council within 28 days after the notice is sent.

32 Development of known or potential archaeological sites

- (1) The Council may grant consent to the carrying out of development which may have an adverse impact on an Aboriginal relic or place (such as a site that is the location of an Aboriginal place or a relic, within the meaning of the *National Parks and Wildlife Act 1974*) or on a potential archaeological Aboriginal relic or place only if:
 - (a) it has considered an assessment of how the proposed development would affect the conservation of the site and any relic known or reasonably likely to be located at the site prepared in accordance with any guidelines for the time being notified to it by the Director-General of National Parks and Wildlife, and
 - (b) it has notified the Director-General of its intention to do so and taken into consideration any comments received from the Director-General within 28 days after the notice was sent, and
 - (c) it is satisfied that any necessary consent or permission under the *National Parks and Wildlife Act 1974* has been granted.
- (2) The Council may grant consent to the carrying out of development on an archaeological site that has non-Aboriginal heritage significance or a potential archaeological site that is reasonably likely to have non-Aboriginal heritage significance only if:
 - (a) it has considered an assessment of how the proposed development would affect the conservation of the site and any relic known or reasonably likely to be located at the site prepared in accordance with any guidelines for the time being notified to it by the Heritage Council, and

- (b) it has notified the Heritage Council of its intention to do so and taken into consideration any comments received from the Heritage Council within 28 days after the notice was sent, and
- (c) it is satisfied that any necessary excavation permit required by the *Heritage Act 1977* has been granted.

33 Development in the vicinity of heritage items, heritage conservation areas, archaeological sites, potential archaeological sites or potential Aboriginal relics or places

The Council must take into consideration the likely effect of the proposed development on the heritage significance of a heritage item, heritage conservation area, archaeological site, potential archaeological site or potential Aboriginal relic or place, and on its setting, when determining an application for consent to carry out development on land in its vicinity.

34 Conservation incentives

- (1) The Council may grant consent to the use, for any purpose, of a building that is a heritage item or is within a heritage conservation area, or of the land on which the building is erected, even though the use would otherwise be prohibited by this plan, if it is satisfied that:
 - (a) the proposed use would not adversely affect the heritage significance of the item or heritage conservation area, and
 - (b) the conservation of the building depends on the granting of the consent.
- (2) When considering an application for consent to erect a building on land on which a heritage item is located or on land within a heritage conservation area, the Council 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 the floor space of the building from its calculation of the floor space of the buildings erected on the land, but only if the Council is satisfied that the conservation of the building depends on it making the exclusion.

35 Access

A road or other means of access to an existing public road must not be constructed without the consent of the Council.

36 Development near zone boundaries

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

and the development is prohibited within one of the zones, the Council may grant consent to the development if:

- (a) the development will not be carried out within the zone in which it would be prohibited further than 20 metres from the boundary between the zones, and
- (b) the part of the site located within the zone permitting the development is considered by the Council not to be of sufficient area and suitability for carrying out all of the development.

37 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 purpose of meeting rooms, public halls, public libraries, periodic public entertainment, sport or recreation, or for any other community purpose, whether or not any such use is a commercial use of the land.

38 Development for the purpose of outdoor advertisements

- (1) **Advertisements allowed without consent** Development for the purpose of an advertisement described in the Table to this clause may be carried out without the consent of the Council, but only in accordance with the conditions (if any) imposed by that Table.
- (2) **Advertisements allowed only with consent** Development for the purpose of an advertisement that is defined in Schedule 5 and conforms to the requirements set out in Schedule 5 in relation to that type of advertisement may be carried out only with the consent of the Council. This subclause does not require consent for development allowed to be carried out without consent by subclause (1).
- (3) Despite any other provision of this plan, development may be carried out with the consent of the Council on any land for the purpose of an advertisement that directs the travelling public to a specific tourist facility or place of scientific, historic or scenic interest, if the Council is satisfied that:
 - (a) the principal purpose of the advertisement is to direct the travelling public to that building or place, and
 - (b) the dimensions and overall size of the advertisement are not larger than would reasonably be required to so direct the travelling public.
- (4) **Advertisements prohibited** Development for the purpose of an advertisement is prohibited on land if it is not permitted without consent by subclause (1) or with consent by subclause (2) or (3).
- (5) **Definitions** In this clause:

advertisement means a display by the use of symbols, messages or other devices for promotional purposes or for conveying information, instructions, directions or the like, whether or not the display includes the erection of a structure or the carrying out of a work.

area of an advertisement in the form of a sign means:

- (a) for a sign with only one side occupied by the matter displayed, the area within the outline of that sign, or
- (b) for a sign with two sides occupied by the matter displayed, the area within the outline of that sign or, where one side is larger than the other, the area within the outline of the larger side, or
- (c) for any other sign, one third of the total surface of the sign.

tourist facility means an establishment providing holiday accommodation or recreational facilities, or both, on a short-term use basis, and may include:

- (a) hotels, motels, bed and breakfast accommodation, serviced apartments, holiday cabins, caravan parks, camping grounds, houseboats, and associated swimming pools, golf courses, tennis courts and marinas, and
- (b) restaurants, and
- (c) souvenir shops, art and craft galleries and exhibition centres.

Table Advertisements allowed without consent

Description of advertisement	Conditions to be met
Advertisement within a site being an advertisement which is not visible from outside the site on which it is displayed	Such an advertisement must not be displayed on a heritage item or on a site within a heritage conservation area.
Advertisement on a motor vehicle used principally for conveying goods or passengers	None.

When displayed on land used for residential purposes within Zone No 1 (a), 1 (c) or 2 (v), such a sign:

(a) must not be displayed on a heritage item, and

(b) must not exceed 0.75 square metre in area.

Business identification sign

being an advertisement that displays any or all of the following information relating to the place or premises to which it is fixed:

(a) the identity or a description of the place or premises,

(b) the identity or a description of any person residing or carrying on an occupation at the place or premises,

(c) particulars of any occupation carried on at the place or premises,

(d) such directions or cautions as are usual or necessary relating to the place or premises or any occupation carried on there,

(e) particulars or notifications required or permitted to be displayed by or under any State or Commonwealth Act,

(f) particulars relating to the goods, commodities or services dealt with or provided at the place or premises,

(g) particulars of any activities held or to be held at the place or premises,

(h) a reference to an affiliation with a trade, professional or other association relevant to the business conducted at the place or premises.

When displayed on land used for commercial or business purposes within Zone No 2 (v), such a sign must not be displayed on a heritage item, and:

(a) if there is no awning on the premises, there may be one or more such signs, but none is to extend more than 4.6 metres above ground level or above the level of the bottom of the first floor window (whichever is lower) and not more than 50% of the area of a shopfront is to be covered by such signs, or

(b) if there is an awning attached to the premises, there may be:

- one or more such signs below the level of the awning, and

- not more than one such sign on an awning, and

- not more than one suspended under-awning sign or projecting wall sign for each 6 metres of the length of a shopfront, each of which must not exceed 2.5 metres in length or 0.5 metre in height and no part of which is to be less than 2.6 metres above ground level.

When displayed on land used for industrial purposes within Zone No 1 (a) or 2 (v), such a sign is not to exceed 5 square metres in area, except when displayed for small shops and other premises (such as banks) that serve the daily needs of persons living or employed within the industrial area. When displayed pursuant to this exception, the conditions for the display of such a sign applying to land used for commercial or business purposes within Zone No 1 (a) or 2 (v) apply.

Advertisement displaying a message changed from that displayed by a previously lawful advertisement

Such an advertisement may be displayed within any zone.

Public notice

being a notice for public information displayed by a public authority giving information or directions about services provided

Such a notice may be displayed within any zone.

Real estate sign

being an advertisement that contains only a notice that the place or premises to which it is fixed is or are for sale or letting (together with particulars of the sale or letting) and that is not displayed for more than 14 days after the letting or completion of the sale.

Such a sign may be displayed within any zone.
Such a sign relating to the letting or the sale by private treaty or auction of residential or rural premises:
(a) must not exceed 2.5 square metres in area, and
(b) must not have any returns exceeding 180 millimetres.

Such a sign relating to commercial or industrial premises must not exceed 4.5 square metres in area.

Sign behind the glass line of a shop window

Such a sign may be displayed within any zone.

Temporary sign

being an advertisement of a temporary nature that:

- (a) announces any local level event of a religious, educational, cultural, political, social, or recreational character or relates to any temporary matter in connection with such event, and
- (b) does not include advertising of a commercial nature (except for the name of an event's sponsor).

Such a sign may be displayed within any zone.

Such a sign:

- (a) must not be displayed earlier than 28 days before the event to which it relates is to take place, and
- (b) must be removed within 14 days after that event.

Temporary signs may consist of advertisements in the form of banners, bunting, posters, inflatable structures and similar things.

39 Classification and reclassification of public land as operational land

- (1) The public land described in Schedule 6 is classified, or reclassified, as operational land for the purposes of the *Local Government Act 1993*, subject to this clause.

- (2) Land described in Part 1 of Schedule 6:
- (a) to the extent (if any) that the land is a public reserve, does not cease to be a public reserve, and
 - (b) continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants by which it was affected before its classification, or reclassification, as operational land.
- (3) Land described in Columns 1 and 2 of Part 2 of Schedule 6, to the extent (if any) that it is a public reserve, ceases to be a public reserve on the commencement of the relevant amending plan and, by the operation of that plan, is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land except those (if any) specified opposite the land in Column 3 of Part 2 of Schedule 6.
- (4) In this clause, ***the relevant amending plan***, in relation to land described in Part 2 of Schedule 6, means the local environmental plan cited at the end of the description of the land.
- (5) Before the relevant amending plan inserted the description of land into Part 2 of Schedule 6, the Governor approved of subclause (3) applying to the land.

Schedule 1 Heritage items and conservation areas

(Clauses 5 (1), 29-34)

Part 1 Heritage items

- 1 Alma Park/Wallendool Former School Site—part Portion 81, Parish of Ryan
- 2 Alma Park Lutheran Church—part Portion 87, Parish of Ryan
- 3 Cookardinia Hotel—part Portion 5, Cookardinia, Parish of Jerra Jerra
- 4 Cookardinia Memorial Hall—Portion 96, Cookardinia, Parish of Jerra Jerra
- 5 Culcairn Memorial Hall and School of Arts—lot 1 and part lot 2, DP 2870, Section 8, 25 Balfour Street, Culcairn, Parish of Round Hill
- 6 Scholz's Corner—lots 9 and 10, Section 5, Balfour Street and Railway Parade, Culcairn, Parish of Round Hill
- 7 Culcairn Hotel—lots 11 to 16, Section 5, Railway Parade, Culcairn, Parish of Round Hill
- 8 Culcairn Court House/Police Building—lot 1, DP 772492, Balfour Street, Culcairn, Parish of Round Hill
- 9 Culcairn Street Trees—Poplars along (MR 331)—Culcairn-Walbundrie and Culcairn-Holbrook Roads. Palms in centre of Balfour Street.

- 10 Culcairn—Hand dug brick lined well—lot 1, DP 858931, Edward St, Parish of Round Hill
- 11 Culcairn Bakery Shop Building—part lot 3, Section 1, 60 Balfour Street, Culcairn, Parish of Round Hill
- 12 Doodle Cooma Arms Hotel—lot 1, DP 946953, corner of Sladen and Ivor Streets, Henty
- 13 Henty Central Hotel—lots 8 and 9, Section 5, Allan Street, Henty, Parish of Henty
- 14 Henty (former) Presbyterian Manse—lot 9, Section 9, 40 Allan Street, Henty
- 15 Residence—lot 13, Section 6, 4 Keightley Street, Henty
- 16 Round Hill Hotel—lots 9 and 10, Section 32, lots 9 and 10, DP 112808, Brownrigg Street, Morven, Parish of Morven
- 17 Walbundrie Hotel—lots 3 and 4, Section 3, Billabong Street, Walbundrie
- 18 Walbundrie, Old School Building—Section 13, corner of Queen and Billabong Streets, Walbundrie, Parish of Walbundrie
- 19 Walla Walla Literary Institute and Memorial Halls—lots 2 and A, DP 6177, Commercial Street, Walla Walla
- 20 Morgan’s Lookout—part Portion 104, Parish of Walla Walla
- 21 Goodwood Shearing Shed and Piese Dwelling—Parish of Bulgandry.

Part 2 Heritage conservation areas

- 1 Culcairn Railway Conservation Area—including station master’s residence, railway station, weighbridge, crane, pedestrian bridge—land on the main line junction, Culcairn, Parish of Round Hill
- 2 Culcairn Conservation Area—bounded by Railway Parade—East, Henty Street—North, Macbean Street—West, rear lot boundaries of land fronting Balfour Street—Parish of Round Hill
- 3 Henty Conservation Area—bounded by Ivor Street—East, rear lot boundaries of land fronting Sladen Street—North and South, and Allan Street—West, Parish of Henty
- 4 Henty Railway Conservation Area—including railway station, station buildings and elliptical roofed goods shed—land on the main line, Parish of Henty

Schedule 2 Arterial roads

(Clauses 22 and 25)

MR 78	Olympic Way
MR 125	Albury—Urana
MR 211	Holbrook—Wagga Wagga
MR 331	Jingellic—Berrigan

MR 370	Howlong—Kywong
MR 547	Jindera—MR 331
—	Henty—Walla Road between MR 331 and Rosler Parade, Henty
—	Morven—Cookardinia Road between MR 331 and MR 211

Schedule 3 Advertised development

(Clause 24)

- 1 The demolition of a building or work that is a heritage item, or is within a heritage conservation area (not being a partial demolition which is, in the opinion of the Council, of a minor nature and does not adversely affect the significance of the item to the local government area of Culcairn).
- 2 Development for the purpose of boarding-houses, hotels, motels, residential flat buildings, or dual occupancies.
- 3 Subdivision by a community, precinct, neighbourhood or strata plan.
- 4 Development for the purpose of industries in Zone No 1 (a), 1 (c) or 2 (v) (other than rural industries in Zone No 1 (a)).
- 5 Development for the purpose of intensive livestock keeping establishments, junk yards, liquid fuel depots, sawmills or commercial stock and sale yards.
- 6 Any development which, in the opinion of the Council, may have a significant impact on the environment.

Schedule 4 Development restricted along arterial roads

(Clause 25)

Development for the purpose of any of the following:

Bulk stores

Caravan parks

Car repair stations

Clubs

Commercial premises

Educational establishments

Hospitals

Hotels

Industries (other than home or rural industries)

Institutions

Junk yards

Liquid fuel depots

Mines

Motels

Places of 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 Advertisements allowed with consent

(Clause 38)

Advertising Structure	Definition	Requirements
Advertising Panel	Any advertising structure, other than those described below, which is unilluminated, including a hoarding or bulletin board	<ol style="list-style-type: none">1) Not to extend laterally beyond the wall2) Projection above the top of the wall to be specified by the Council but not to exceed 2.4 m3) Not to cover any window or architectural feature

Awning Sign: Under-Awning	Sign attached to the underside of an awning (other than the fascia or return end)	<ol style="list-style-type: none"> 1) Maximum size to be 1.5 m² single, 3 m² double sided (signs not exceeding 2.5 m in length and 0.5 m in height do not require development consent). 2) Erected horizontal to the ground and at no point less than 2.6 m from the ground 3) Not to project beyond the awning 4) Securely fixed by metal supports
Awning Sign: Above-Awning	Sign attached to the upperside of an awning (other than the fascia or return end)	<ol style="list-style-type: none"> 1) Maximum size to be 2.2 m² 2) Not to project beyond the awning 3) Securely fixed by metal supports
Fascia Sign	Sign attached to the fascia or return of an awning	<ol style="list-style-type: none"> 1) Not to project above or below the fascia or return end of the awning to which it is attached. 2) Not to extend more than 300 mm from the fascia or return end of the awning
Fin Sign	Sign erected on or above the canopy of a building	<ol style="list-style-type: none"> 1) Maximum size to be 13 m² 2) Not to extend more than 2.6 m above the canopy on or above which it is erected
Flashing Sign	Illuminated (as to any part of the advertising area) at frequent intervals by an internal source of artificial light (whether or not included in any other class of advertising structure)	Must be at least 6.1 m above ground level
Floodlit Sign	Illuminated (as to any part of the advertising area) by an external light source (whether or not included in any other class of advertising structure)	Lighting medium must be at least 2.6 m above the ground if the sign projects over a public road
Flush Wall Sign	Attached to the wall of a building (other than the transom of a doorway or display window) and not projecting more than 300 mm from the wall	Not to project above or beyond the wall to which it is attached

Moving Sign	Attached to a building and capable of movement by any source of power (whether or not included in any other class of advertising structure)	Must be at least 4.6 m above the ground
Painted Wall Sign	Painted onto a wall of a building	
Pole, Pylon or Monument Sign	Erected on a pole or pylon independent of any building or other structure	<ol style="list-style-type: none"> 1) Maximum height to be 8 m above ground and maximum area to be determined by the Council. 2) Minimum height above ground level is 2.6 m if it projects over a public road
Projecting Wall Sign	Attached to the wall of a building (other than the transom of a doorway or display window) and projecting horizontally more than 300 mm	<ol style="list-style-type: none"> 1) Maximum height to be determined in accordance with the following scale: <ol style="list-style-type: none"> a) if the lowest part of the sign is more than 2.6 m but not more than 3.7 m above ground level, the maximum height for the sign is 0.5 m b) if the lowest part of the sign is more than 3.7 m but not more than 6.1 m above ground level, the maximum height for the sign is 1.2 m c) if the lowest part of the sign is more than 6.1 m above ground level, the maximum height for the sign is 1.5 m 2) Not to project beyond a point within 0.6 m of the vertical projection of the kerb alignment 3) Lowest part of the sign must be at least 2.6 m above the ground 4) Must be erected

		Maximum height determined in accordance with the following scale:
		a) if the height of the building is 3.7 m or more but not more than 9.1 m above ground level, the maximum height for the top of the sign above the building is 3.7 m
		b) if the height of the building is more than 9.1 m but not more than 12.2 m above ground level, the maximum height for the top of the sign above the building is 4.6 m
		c) if the height of the building is more than 12.2 m but not more than 18.3 m above ground level, the maximum height for the top of the sign above the building is 6.1 m
		d) if the height of the
Roof Sign	Erected on or above the roof or parapet of a building	
Top Hamper Sign	Attached to the transom of a doorway or display window of a building	1) Not to extend more than 200 mm beyond any building alignment 2) Not to extend below the head of the doorway or window to which it is attached
Window Sign	Attached to, or displayed on, the shop window	Not to project beyond the window glass area to which it is attached.

Schedule 6 Classification and reclassification of public land as operational land

(Clause 39)

Part 1 Public land classified or reclassified—interests not changed

Culcairn

Hickery Hill Road Lot 281, DP 703491, as shown edged heavy black on the map marked "Culcairn Local Environmental Plan 1998 (Amendment No 2)"

Part 2 Public land classified or reclassified—interests changed

Column 1	Column 2	Column 3
Locality	Description	Trusts etc not discharged