

Yarrowlumla Local Environmental Plan 1993

[1993-246]



New South Wales

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New South Wales

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Yarrowlumla Local Environmental Plan 1993



New South Wales

Part 1 Preliminary

1 Name of plan

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

2 Aims, objectives etc

The general aims of the plan are:

- (a) to encourage the proper management, development and conservation of natural and man-made resources within the Shire of Yarrowlumla by protecting, enhancing or conserving:
 - (i) productive agricultural and horticultural land,
 - (ii) timber, minerals, soil, water and other natural resources,
 - (iii) localities of significance for nature conservation, and
 - (iv) localities of high scenic or recreational value, and
- (b) in relation to environmental heritage:
 - (i) to conserve the environmental heritage of the Shire of Yarrowlumla,
 - (ii) to integrate heritage conservation into the planning and development control processes,
 - (iii) to provide for public involvement in matters relating to the conservation of the Shire of Yarrowlumla's environmental heritage, and
 - (iv) 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 streetscapes and landscapes of village and rural areas and the distinctive character that they impart to the Shire of Yarrowlumla, and
- (c) to replace planning controls with a single local environmental plan to help facilitate the growth and development of the Shire of Yarrowlumla in a manner which is

consistent with the aims specified in paragraph (a) and which:

- (i) minimises the costs to the community of fragmented and isolated development of rural land,
 - (ii) facilitates the efficient and effective provision of amenities and services,
 - (iii) facilitates a range of residential and employment opportunities in accordance with demand,
 - (iv) facilitates farm adjustments, and
 - (v) ensures that the efficiency of arterial roads is not adversely affected by development on adjacent land, and
- (d) to simplify the general restrictions on development by reducing the number of zones into which land is divided, 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 this plan applies

This plan applies to the land, except land within the area of Yarrowlumla, shown on the map, with the boundaries as indicated on the map.

4 Relationship to other environmental planning instruments

- (1) *Yarrowlumla Local Environmental Plan 1986* is repealed by this plan.
- (2) 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 also repealed to the extent only that they applied to that land.

5 Repeal of Yarrowlumla Local Environmental Plan 1986

Yarrowlumla Local Environmental Plan 1986 is repealed.

6 Interpretation

- (1) In this plan:

advertised development has the same meaning as it has in the *Environmental Planning and Assessment Act 1979*.

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

alter, in relation to a heritage item, means:

- (a) make structural changes to the outside of the heritage item, or
- (b) make non-structural changes to the detail, fabric, finish or appearance of the outside of the heritage item, not including changes that result from the maintenance of the existing detail, fabric, finish or appearance of the outside of the heritage item.

ANEF contour means the noise exposure contour shown as an ANEF contour on a plan of Canberra (Fairbairn) Airport or surrounding land prepared by an appropriate Commonwealth public authority or private lessor of the Airport.

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.

arts and crafts gallery means a building used for the display of arts and crafts and which may also be used for the sale of arts and crafts.

Australian noise exposure forecast (ANEF) for land means a value allocated to the land on an index used for predicting the cumulative exposure to aircraft noise in communities near airports during a specified time period.

awning means a fixed or retractable canvas or metal roof-like covering to shelter persons or protect parts of a building from the effects of sun or rain, usually erected in front of a window or door, or over a balcony or deck.

balcony means an open or covered elevated horizontal platform attached to the upper floor of a building, projecting or recessed into the face of the wall, accessible from an adjacent room, and protected by a railing or balustrade.

barbecue means an outdoor facility, located in a backyard or courtyard, for domestic cooking.

bed and breakfast means the provision of accommodation and meals for

commercial purposes within a dwelling-house:

- (a) by the permanent residents of the dwelling-house, and
- (b) on a short term basis,

where not more than 10 people occupy the dwelling-house, including the permanent residents. For the purpose of this definition, **dwelling-house** includes ancillary buildings (if any), forming part of the main building group, existing at the appointed day and any alterations to such buildings, provided that the site coverage, size and bulk of the buildings are not increased after that day.

Building Code of Australia has the same meaning as it has in the [Environmental Planning and Assessment Act 1979](#).

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.

cabana means a covered structure which is often but not always used as a pool side shelter or change room or both.

canopy means an ornamental roof-like covering or projection, which may be for the purpose of providing shade or shelter, either suspended or supported on brackets, corbels or columns, over a door, window, niche or balcony.

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

carport means a roofed, open or semi-enclosed structure for the sheltering of motor vehicles, attached to, adjacent to, or near a dwelling-house.

cladding means the outer non-load bearing covering of external walls or roof of a framed building or structure, applied for weather-proofing or decorative purposes or both.

commercial premises means a building or place used as an office or for commercial purposes, but does not include a building or place elsewhere specifically defined in this clause or a building or place used for a purpose elsewhere specifically defined in this clause.

community facility means a building or place used to provide services relating to any one or more of the following:

- (a) a public library,
- (b) public health, welfare or information services,

- (c) rest rooms,
- (d) meeting rooms,
- (e) indoor recreation,
- (f) child minding,
- (g) other community support facilities.

complying development has the same meaning as it has in the [Environmental Planning and Assessment Act 1979](#).

contaminate has the same meaning as it has in the [Contaminated Land Management Act 1997](#).

contamination has the same meaning as it has in the [Contaminated Land Management Act 1997](#).

Council means the Council of the Shire of Yarrowlumla and, in relation to land situated in the area of the City of Queanbeyan, the Council of the City of Queanbeyan.

cubby house means a small scale replica of a dwelling-house, usually of simple construction and located in the backyard or courtyard, which is used primarily by children for the purposes of play.

deck means a horizontal platform which may or may not be roofed and, usually at or slightly above ground level, attached to, or forming part of, a building.

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

driveway means a defined area within a property used by vehicles travelling between a carriageway and a property adjacent to or near a road.

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

excavation or **filling** means works which alter the ground level.

exempt development has the same meaning as it has in the [Environmental Planning and Assessment Act 1979](#).

feed lot means a building or place in which or on which cattle, sheep or other livestock are held for the purpose of nurturing either wholly or partly by a feeding method other than natural grazing, but does not include a piggery, poultry farm or animal boarding, breeding or training establishment.

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 tree farming.

garaging of plant and trucks means the storage and maintenance of up to 2 pieces of plant or trucks on a property where the plant or trucks are operated only by the occupier or occupiers of the property.

garden shed means a small building, usually of metal or timber construction, for the storage of garden implements and the like.

gazebo means a structure, usually roofed, and used for outdoor activities or entertaining, particularly during warm weather.

general store means a shop used for the sale by retail of general merchandise, petroleum products, rural and landscaping supplies, and may include the facilities of a post office, but does not include a service station.

greenhouse means a building, usually constructed chiefly of glass or other transparent material, for the cultivation or protection of plants that will not survive in outdoor conditions.

ground level means the level of a site prior to any development, including any excavation, filling or grading, that has taken place and, where the ground level has been altered after the appointed day, the ground level is taken to be that level of the site as determined by the Council.

height means the greatest distance measured vertically from any point of a building, including its roof, to the ground level below that point.

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

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

home occupation means any occupation or pursuit carried out in a room or a number of rooms forming part of, or within the curtilage of, a dwelling-house on an allotment, or in another building for which consent has been granted situated on the same allotment as a dwelling-house, where:

- (a) only goods made or produced, or services offered, as a result of the occupation or pursuit are displayed, sold or provided, and
- (b) the primary use of the dwelling is residential, and
- (c) the gross floor area where the occupation or pursuit is carried out does not exceed 30 square metres, and

- (d) the occupation or pursuit does not:
- (i) interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, or
 - (ii) involve exposure to view from any public place of any matter, or
 - (iii) require the provision of any essential service main of a greater capacity than that available in the locality, or
 - (iv) involve the exhibition of an advertising structure and the display of an advertisement on it or an advertisement that is not an advertising structure other than as exempt development, or
 - (v) involve a change in the appearance of the dwelling-house, or the land on which the dwelling-house is erected, that is, in the opinion of the Council, out of character with the appearance of the adjoining area, or
 - (vi) involve prostitution, and
- (e) any retail sales are ancillary to the occupation or pursuit.

home office means an occupation carried on in a dwelling-house by the permanent residents of the dwelling-house, being an occupation that does not involve:

- (a) the registration of the building under the *Factories, Shops and Industries Act 1962*,
- (b) the employment of more than 3 persons other than permanent residents of the dwelling-house,
- (c) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or otherwise,
- (d) the display of goods, whether in a window or otherwise,
- (e) the exhibition of any notice, advertisement or sign other than a notice or sign exhibited on the dwelling-house, or on land on which the dwelling-house is erected, to indicate the names and occupations of the permanent residents of the dwelling-house, or
- (f) a change in the appearance of the dwelling-house, or the land on which the dwelling-house is erected, that is, in the opinion of the Council, out of character with the appearance of the adjoining area.

intensive livestock keeping establishment means a building or place in which or on which cattle, sheep, goats, poultry or other livestock are held for the purposes of

nurturing by a feeding method other than natural grazing and, without limiting the generality of the foregoing, includes:

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

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

landscape means character or visual quality of the environment of a particular location or area and may include both natural and man-made elements.

main road means a road declared to be a main road under the [State Roads Act 1986](#).

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

materials recycling yard means a building or place used for collecting, dismantling, storing, abandoning or recycling secondhand or scrap materials for the purpose of resale.

native vegetation has the same meaning as it has in the [Native Vegetation Conservation Act 1997](#).

paintball establishment means a building or place used for the purpose of providing facilities for recreation field games such as paintball skirmish or the like.

patio means a ground level, unroofed paved area, surrounded by portions of a dwelling or building, and forming part of the living area.

pergola means an open-roofed framework over a path, terrace or patio, supported on posts or columns, and sometimes covered with plants trained over members.

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

piggery means a building or place where 3 or more pigs over 8 months of age are kept, but does not include an abattoir or slaughterhouse.

plant depot means a building or place used for the parking or servicing of movable plant and motor vehicles by the owner or lessee of that building or place, being plant used in an occupation or business carried on at some other location.

playground equipment means equipment such as swings and slides, designed

primarily for use by children for the purposes of play.

poultry farm means:

- (a) a building or place in which or on which more than 20 hens are kept, or
- (b) a building or place which is used for commercial poultry breeding purposes.

produce store means a building or place used for the sale by retail of grain, stock feed fertiliser or veterinary medicine.

public utility undertaking means any of the following undertakings carried on or permitted or suffered to be carried on by or by authority of any Government Department or under the authority of or in pursuance of any Commonwealth or State Act:

- (a) railway, road transport, water transport, air transport, wharf or river undertakings,
- (b) undertakings for the supply of water, hydraulic power, electricity or gas or the provision of sewerage or drainage services,
- (c) undertakings for the provision of telecommunications facilities,

and a reference to a person carrying on a public utility undertaking shall be construed as including a reference to a council, county council, Government Department, corporation, firm or authority carrying on the undertaking.

reception establishment means a building or place used for the purpose of wedding receptions, birthday parties or the like, but does not include a refreshment room or hotel.

recreation area means:

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

but does not include a racecourse, showground or paintball establishment.

recreation establishment means a health farm, religious retreat house, rest home, youth hostel, guest house or the like but does not include a building or place

elsewhere specifically defined for the purposes of this plan.

relic means any deposit, object or material evidence (terrestrial or underwater) relating to the use or settlement of the Shire of Yarrowlumla which is 50 or more years old.

retail plant nursery means a building or place used for the propagation for sale by retail of plants, whether or not landscape supplies (including earth products) and other landscape and horticultural products are also sold.

retail winery means a building erected or proposed to be erected for the purpose of manufacturing, storing and offering for sale viticultural products.

rural home industry means a rural industry carried on in a building (other than a dwelling-house) under the following circumstances:

- (a) the building has a gross floor area not exceeding 200 square metres and is erected within the curtilage of a dwelling-house occupied by the person carrying on the rural industry, or on adjoining land owned by that person, and
- (b) the rural industry does not:
 - (i) interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or otherwise,
 - (ii) involve exposure to view from any adjacent premises or from any public place of any unsightly matter, or
 - (iii) require the provision of any essential service main of a greater capacity than that available in the locality.

rural industry means:

- (a) the handling, treating, processing or packing of primary products, or
- (b) the servicing in a workshop of plant or equipment used for rural purposes, or
- (c) a combination of the activities referred to in paragraphs (a) and (b).

statutory fire safety measure has the same meaning as it has in the *Environmental Planning and Assessment Regulation 1994*.

the map means the map marked “*Yarrowlumla Local Environmental Plan 1993*”, as amended by the maps (or, if sheets of maps are specified, by the specified sheets of the maps) marked as follows:

Yarrowlumla Local Environmental Plan 1993 (Amendment No 6)

Yarrowlumla Local Environmental Plan 1993 (Amendment No 8)

Yarrowlumla Local Environmental Plan 1993 (Amendment No 12)

Yarrowlumla Local Environmental Plan 1993 (Amendment No 14)

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

utility installation means a building or work used for a utility undertaking.

utility undertaking means any undertaking carried on by or by authority of any Government department, or in pursuance of any Commonwealth or State Act, for the purposes of:

- (a) railway, road, water or air transport, or wharf or river undertakings, or
- (b) the provision of sewerage or drainage services, or
- (c) the supply of water, hydraulic power, electricity or gas, or
- (d) telecommunications facilities.

veterinary establishment means a building or place used for the diagnosis and surgical or medical treatment of animals, whether or not animals are kept on the premises for the purpose of treatment.

wholesale plant nursery means a building or place used for both the growing and wholesale of plants, whether or not landscape supplies (including earth products) and other landscape and horticultural products are also sold by wholesale from the premises.

1966 holding means:

- (a) except as provided by paragraph (b)—an allotment, portion or parcel of land as it was at 7 January 1966, or
- (b) where, as at 7 January 1966, a person owned 2 or more adjoining or adjacent allotments, portions or parcels of land—the land comprised of the aggregation of the areas of those allotments, portions or parcels as they were as at 7 January 1966.

1995 holding means:

- (a) except as provided by paragraph (b)—an allotment, portion or parcel of land in existence at the date of gazettal of *Yarrowlumla Local Environmental Plan 1993 (Amendment No 6)* as a separate allotment, portion or parcel, or
- (b) where, as at the date of gazettal of *Yarrowlumla Local Environmental Plan 1993*

(Amendment No 6), a person owned 2 or more adjoining or adjacent allotments, portions or parcels of land having access to a public road—the land comprised of the aggregation of the areas of those allotments, portions or parcels,

but does not include a 1966 holding.

(2) In this plan:

- (a) a reference to a building or place used for a purpose includes a reference to a building or place intended to be used for the purpose,
- (b) a reference to a map is a reference to a map deposited in the office of the Council, and
- (c) a reference to land within a zone specified in the Table to clause 10 is a reference to land shown on the map in the manner indicated in clause 9 as the means of identifying land of the zone so specified.

6A Exempt development

Development of minimal environmental impact listed in Tables 1 to 6 of *Development Control Plan No 49 Exempt and Complying Development* as adopted by the Council on 19 September 2001 is exempt development provided that it satisfies the applicable requirements listed in those Tables, meets the deemed-to-satisfy provisions of the *Building Code of Australia* and is not a type development which, if carried out:

- (a) will result in more than one being on the site, or
- (b) will be carried out on a site subject to an order under the [Heritage Act 1977](#) or which is a heritage item, or is on flood liable land, or
- (c) will be carried out on a site identified as an Aboriginal place under the [National Parks and Wildlife Act 1974](#), or
- (d) will be carried out on a site reserved or dedicated under the [Crown Lands Act 1989](#) for the preservation of flora, fauna or geological formations or for other environmental protection purposes, or
- (e) would conflict with the provisions in favour of the Council of any section 88B instrument or covenant registered pursuant to the [Conveyancing Act 1919](#) in favour of the Council and applying to the site, or
- (f) would contravene a current condition of a development consent applying to the site, or
- (g) would require the removal of any tree for which consent is required and the consent of the Council for the removal of the tree has not been obtained, or
- (h) would affect any one or more of the following matters in regard to an existing

building:

- (i) the structural sufficiency, soundness, or stability, or
 - (ii) a fire rated wall, ceiling or floor, or
 - (iii) a statutory fire safety measure, or
- (i) would adversely affect:
- (i) solar access to or ventilation of any existing habitable building, or
 - (ii) the drainage of the site or an adjoining site, or
 - (iii) any vehicular or pedestrian access to and from the site.

6B Complying development

- (1) The following development is complying development if it can be carried out with the Council's consent on the land on which it is proposed by virtue of clause 10:
- (a) the erection of dwelling-house alterations and additions which are single storey and occur at ground level on land in Zone No 1 (a) or 1 (d), and
 - (b) the erection or construction and use of barbecues and associated works (unroofed), cabanas, cubby houses, decks, fern houses, garages, gazebos, greenhouses, patios, pergolas, private playground equipment, swimming pools and workshops ancillary to dwelling-houses in Zone No 1 (a) or 1 (d), and
 - (c) use of an existing dwelling-house for which development consent or building approval was granted for a bed-and-breakfast establishment.
- (2) Development referred to in subclause (1) is complying development only if:
- (a) it meets the applicable requirements specified in Tables 7 to 9 of *Development Control Plan No 49 Exempt and Complying Development* as adopted by the Council on 19 September 2001, applying to the development, and
 - (b) it complies with the deemed-to-satisfy provisions of the *Building Code of Australia*, and
 - (c) it does not include the exhibition or sale of material (whether literature, video, film, goods or articles) used or intended for use in connection with sexual behaviour and classified or refused classification under the [Classification \(Publications, Films and Computer Games\) Act 1995](#) of the Commonwealth, or the exhibition of objects primarily concerned with sexual behaviour, and
 - (d) it is not development which:
 - (i) is carried out on a site or which is a heritage item or is within the 20-25 ANEF

- contour and habitable or capable of habitation for residential purposes, or is on flood liable land, or
- (ii) is carried out on a site previously used for intensive agriculture, mining or extractive industry or as a sheep or cattle dip or for the manufacture of chemicals or which is contaminated, or
 - (iii) is carried out on a site identified as an Aboriginal place under the *National Parks and Wildlife Act 1974*, or
 - (iv) is carried out on a site reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna or geological formations or for other environmental protection purposes, or
 - (v) is carried out on a site which is critical habitat, or contains threatened species, populations, endangered ecological communities or their habitats within the meaning of the *Threatened Species Conservation Act 1995*, or
 - (vi) is carried out on a site which immediately adjoins and will drain into land which is critical habitat, or contains threatened species, populations, endangered ecological communities or their habitats within the meaning of the *Threatened Species Conservation Act 1995*, or
 - (vii) is inconsistent with any recovery plan or threat abatement plan in force under the *Threatened Species Conservation Act 1995* that applies to the site, or
 - (viii) is carried out on a site in Zone No 7 (e) or which immediately adjoins and will drain into land in Zone No 7 (e), or
 - (ix) is an existing use, as defined in section 106 of the *Environmental Planning and Assessment Act 1979*, or
 - (x) conflicts with the provisions in favour of the Council of any section 88 instrument or registered covenant pursuant to The *Conveyancing Act 1919* and applying to the site, or
 - (xi) contravenes a condition of a current development consent apply to the site, or
 - (xii) involves a change of classification under the *Building Code of Australia* of any building or part of any building on the site, or
 - (xiii) adversely affects:
 - (A) natural light, solar access to or ventilation of any existing habitable building, or

- (B) the drainage of the site or an adjoining site, or
 - (C) vehicular or pedestrian access to or from the site, or
 - (e) in the case where carrying out the development involves the doing of anything referred to in Section 78A (3) of the *Environmental Planning and Assessment Act 1979* for which approval is required or in the removal of a tree or native vegetation for which an approval or consent is required, that approval or consent has been obtained.
- (3) A complying development certificate must include those conditions specified in *Development Control Plan No 49 Exempt and Complying Development*, as in force when the certificate is issued, that are applicable to the particular type of development for which the certificate is sought.

7 Adoption of 1980 Model Provisions

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

- (a) the definitions of **agriculture, commercial premises, forestry, general store, home occupation, main road, map, public utility undertaking, recreation establishment, retail plant nursery, rural industry** and **utility installation** in clause 4 (1), and
 - (b) clauses 6, 15 and 29,
- are adopted for the purpose of this plan.

8 Consent authority

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

8A Development that does not require development consent

- (1) A person may carry out the following development on any land to which this plan applies without development consent:
 - (a) exempt development,
 - (b) development of any description specified in Schedule 1 to the *Environmental Planning and Assessment Model Provisions 1980*,
 - (c) use of existing buildings of the Crown by the Crown.
- (2) Nothing in this plan affects the requirement for determining authorities to consider the impact on the environment of an activity in accordance with Part 5 of the *Environmental Planning and Assessment Act 1979*.

Part 2 Zones

9 Zones indicated on the map

- (1) 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 (d) (Rural Residential)—edged heavy black and lettered “1 (d)”

Zone No 1 (d1) (Rural Residential)—edged heavy black and lettered “1 (d1)”

Zone No 1 (f) (State Forest)—edged heavy black and lettered “1 (f)”

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

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

Zone No 5 (a) (Water Catchment)—edged heavy black and lettered “5 (a)”

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

Zone No 7 (e) (Environmental Protection Scenic)—edged heavy black and lettered “7 (e)”

Zone No 7 (g) (Environmental Protection Scientific)—edged heavy black and lettered “7 (g)”

Zone No 8 (a) (National Park)—edged heavy black and lettered “8 (a)”

- (2) A zone may be referred to by its number or by the short description of its purpose.

10 Zone objectives and development control table

- (1) The objectives of a zone are set out in the Table to this clause under the heading “Objectives of zone” appearing in the matter relating to the zone.
- (2) Except as otherwise provided by this plan, in relation to land within a zone specified in the Table to this clause, the purposes (if any) for which:
- (a) development may be carried out without development consent,
 - (b) development may be carried out only with development consent, and
 - (c) development is prohibited,
- are specified under the headings “Without development consent”, “Only with development consent” and “Prohibited”, respectively, appearing in the matter relating

to the zone.

- (3) Except as otherwise provided by this plan, the Council shall not grant consent to the carrying out of development on land to which this plan applies unless the Council is of the opinion that the carrying out of the development is consistent with the objectives of the zone within which the development is proposed to be carried out.

Table

Zone No 1 (a) (General Rule)

1 Objectives of zone

The objectives of this zone are:

- (a) to protect the agricultural potential of rural land and to prevent the fragmentation of viable rural holdings,
- (b) to prevent premature and sporadic subdivisions and to ensure consolidation of urban areas, thus enhancing the prospect of the economic provision of public services,
- (c) to prevent the subdivision of land on the fringe of urban areas into small allotments that may prejudice the proper layout of future urban areas,
- (d) to ensure that development occurs only on land which is suitable for, and economically capable of, the proposed development and so as not to create conflicting uses,
- (e) to allow the use of land within the zone for agricultural purposes and for a range of other appropriate purposes, whilst minimising conflict between other uses and intensive agriculture,
- (f) to restrict the establishment of inappropriate traffic generating uses along arterial and main road frontages,
- (g) to ensure sound management of land which has an extractive or mining industry potential and to ensure that development does not adversely affect the potential of any existing or future extractive industry, and
- (h) to permit the development of industries that are appropriately located in the rural environment.

2 Without development consent

Development for the purpose of:

Agriculture (other than animal boarding establishments, animal breeding or training establishments or intensive livestock keeping establishments); forestry; tree farming.

Exempt development.

3 Only with development consent

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

4 Prohibited

Boarding-houses; bulk stores; car repair stations; caravan parks; commercial premises; feedlots; hotels; industries (other than extractive industries, home industries, rural industries or rural home industries); junk yards; motor showrooms; offensive or hazardous industries; paintball establishments; residential flat buildings; road transport terminals; shops (other than general stores); taverns; transport terminals; warehouses.

Zone No 1 (d) (Rural Residential)

1 Objectives of zone

The objectives of this zone are:

- (a) to provide the opportunity for development of integrated rural/residential communities,
- (b) to promote an innovative approach to rural/residential development,
- (c) to ensure that development is compatible with the environmental capabilities of the land and to encourage the conservation and enhancement of natural resources by means of appropriate land management techniques,
- (d) to assist in meeting the demand for rural/residential development where it is consistent with the conservation of rural, agricultural, heritage and natural landscape qualities,
- (e) to ensure that attractive views from main roads and other vantage points are protected and enhanced,
- (f) to ensure that adequate provision has been made for water supply and disposal of effluent,

- (g) to ensure that development does not create unreasonable demands, now or in the future, for provision or extension or public amenities or services,
- (h) to ensure that traffic generating developments are suitably located so as not to adversely affect the safety and efficiency of roads,
- (i) to ensure that development will not lead to excessive soil erosion or run-off, and
- (j) to ensure that the form, siting and colours of buildings, building materials and landscaping complement the natural scenic quality of these areas.

2 Without development consent

Development for the purpose of:

Agriculture (other than intensive livestock keeping establishments);
home occupations; tree farming.

Exempt development.

3 Only with development consent

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

4 Prohibited

Abattoirs; animal boarding establishments; boarding-houses; bulk stores; car repair stations; caravan parks; commercial premises; extractive industries; forestry; heliports; hotels; industries (other than home industries, rural industries or rural home industries); institutions; intensive livestock keeping establishments; junkyards; liquid fuel depots; materials recycling yards; mines; motels; motor showrooms; offensive or hazardous industries; paintball establishments; residential flat buildings; rural workers' dwellings; road transport terminals; sawmills; service stations; shops (other than general stores); stock and saleyards; transport terminals; warehouses.

Zone No 1 (d1) (Rural Residential)

1 Objectives of zone

The objectives of this zone are:

- (a) to provide the opportunity for development of integrated rural/residential communities in a clustered form,

- (b) to promote an innovative and flexible approach to rural/residential development,
- (c) to ensure that development is compatible with the environmental capabilities of the land and to encourage the conservation and enhancement of natural resources by means of appropriate land management techniques,
- (d) to assist in meeting the demand for rural/residential development where it is consistent with the conservation of rural, agricultural, heritage and natural landscape qualities,
- (e) to ensure that attractive views from main roads and other vantage points are protected and enhanced,
- (f) to ensure that adequate provision has been made for water supply and disposal of effluent,
- (g) to ensure that development does not create unreasonable demands, now or in the future, for the provision or extension of public amenities or services,
- (h) to ensure that traffic generating development is suitably located so as not to adversely affect the safety and efficiency of roads,
- (i) to ensure that development will not lead to excessive soil erosion or run-off, and
- (j) to ensure that the form, siting and colours of buildings, building materials and landscaping complement the natural scenic quality of land within this zone,
- (k) to ensure that the development will not have any effect on threatened plant and animal species or regionally significant grassland communities, and
- (l) to ensure that sites of Aboriginal archaeological significance in the zone are identified and protected.

2 Without development consent

Agriculture; extensions to dwelling-houses; home occupations; tree farming.

3 Only with development consent

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

4 Prohibited

Abattoirs; animal boarding establishments; boarding-houses; bulk stores; car repair stations; caravan parks; commercial premises; extractive industries; heliports; hotels; industries (other than home industries, rural industries or rural home industries); institutions; intensive livestock keeping establishments; junk yards; liquid fuel depots; materials recycling yards; mines; motels; motor showrooms; offensive or hazardous industries; paintball establishments; residential flat buildings; rural workers' dwellings; road transport terminals; sawmills; service station; shops (other than general stores); stock and sale yards; transport terminals; warehouses.

Zone No 1 (f) (State Forest)

1 Objectives of zone

The objectives of this zone are:

- (a) to identify land within the Shire of Yarrowlumla dedicated as a State Forest under the *Forestry Act 1916*, and
- (b) to encourage the use of that land for the purposes permitted under that Act so as to provide employment opportunities in forestry and the timber industry and to promote the use and enjoyment of that land, but in all cases having regard to the likely effect of forestry works on the environment within the Shire of Yarrowlumla.

2 Without development consent

Any purpose or activity authorised under the *Forestry Act 1916* undertaken by or on behalf of the Forestry Commission.

3 Only with development consent

Nil.

4 Prohibited

Any purpose other than a purpose included in item 2.

Zone No 1 (g) (Rural Small Holdings)

1 Objectives of zone

The objectives of this zone are:

- (a) to provide opportunities for rural residential living in areas in close proximity to existing villages and urban areas where services are readily and economically accessible,
- (b) to protect and enhance the scenic quality and rural character of the locality,
- (c) to ensure that traffic generating developments are suitably located so as not to adversely affect the safety and efficiency of roads,
- (d) to ensure that the form, siting and colours of buildings, building materials and landscaping complement the natural scenic quality of these localities, and
- (e) to ensure that where development is to be located on or near ridgetops, it will not significantly intrude into the skyline or detract from the scenic amenity of the locality.

2 Without development consent

Agriculture.

3 Only with development consent

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

4 Prohibited

Abattoirs; animal boarding establishments; boarding-houses; bulk stores; car repair stations; commercial premises; extractive industries; forestry; heliports; hotels; industries (other than home industries, rural industries or rural home industries); institutions; intensive livestock keeping establishments; junkyards; liquid fuel depots; materials recycling yards; mines; motels; motor showrooms; offensive or hazardous industries; paintball establishments; residential flat buildings; rural workers' dwellings; road transport terminals; sawmills; service stations; shops (other than general stores); stock and saleyards; transport terminals; warehouses.

Zone No 2 (v) (Village)

1 Objectives of zone

The objectives of this zone are:

- (a) to set aside areas in which a range of residential accommodation and urban facilities can be provided for the rural community,
- (b) to recognise the natural and physical features of each village and to prevent development in unsuitable areas such as flood-prone land, and
- (c) to control village development so as to achieve the most efficient use of existing utility services (such as water supply and sewerage services), roads and streets.

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose included in item 4.

4 Prohibited

Abattoirs; animal boarding establishments; extractive industries; forestry; heliports; intensive livestock keeping establishments; industries (other than home industries or light industries); institutions; mines; offensive or hazardous industries; paintball establishments; recreation establishments; rural workers' dwellings; stock and saleyards.

Zone No 5 (a) (Water Catchment)

1 Objectives of zone

The objective of this zone is to restrict development of land to such uses as are compatible with the water catchment area identified by this zone.

2 Without development consent

The particular purpose indicated by black lettering on the map.

3 Only with development consent

Nil.

4 Prohibited

Any purpose other than a purpose included in item 2.

Zone No 6 (a) (Recreation)

1 Objectives of zone

The objective of this zone is to set aside areas in which recreation facilities for the general use of the community can be provided.

2 Without development consent

Landscaping and gardening.

3 Only with development consent

Agriculture; camping areas; caravan parks; drainage; forestry; roads; utility installations (other than gas holders or generating works).

4 Prohibited

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

Zone No 7 (e) (Environmental Protection Scenic)

1 Objectives of zone

The objective of this zone is to protect various areas which are environmentally sensitive and which enhance the visual amenity of the Shire of Yarrowlumla.

2 Without development consent

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

3 Only with development consent

Dwelling-houses; home industries; home occupations; public utility undertakings; utility installations.

4 Prohibited

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

Zone No 7 (g) (Environmental Protection Scientific)

1 Objectives of zone

The objective of this zone is to protect various areas which are of scientific or social significance.

2 Without development consent

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

3 Only with development consent

Dwelling-houses; homes industries; home occupations; public utility undertakings; utility installations.

4 Prohibited

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

Zone No 8 (a) (National Park)

1 Objectives of zone

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

2 Without development consent

Any purpose or activity authorised under the *National Parks or Wildlife Act 1974* undertaken by or on behalf of the National Parks and Wildlife Service.

3 Only with development consent

Nil.

4 Prohibited

Any purpose other than a purpose included in item 2.

Part 3 Special provisions

Division 1 Subdivision

11 General

A person may subdivide land to which this plan applies but only with the consent of the

Council.

12 Land within Zone No 1 (a), 7 (e) or 7 (g)

- (1) This clause applies to land within Zone No 1 (a), 7 (e) or 7 (g).
- (2) The Council must not consent to the subdivision of land to which this clause applies otherwise than in accordance with this clause.
- (3) The Council must not consent to an application to subdivide land to which this clause applies unless the applicant has nominated one of the lots to be created by the subdivision as the residue lot.
- (4) The Council may consent to the subdivision of land to which this clause applies for the purpose of agriculture or a dwelling-house only if it is satisfied that:
 - (a) each allotment proposed to be created by the subdivision will have an area of not less than 8 hectares, and
 - (b) the average area of the allotments proposed to be created by the subdivision of a 1995 holding will not be less than 80 hectares, and
 - (c) each proposed allotment which will have a frontage to a main or arterial road will have a frontage to that road of not less than 200 metres or one entry point for vehicles, and
 - (d) each proposed allotment which will have a frontage to a lake or river will have a frontage to that lake or river of not less than 200 metres, and
 - (e) the land has not previously been subdivided in accordance with this clause, unless it is the land nominated as the residue lot in the last subdivision which involved the land.
- (5) Notwithstanding subclause (4), the Council may consent to the subdivision of a 1995 holding between 88 hectares and 159 hectares in area so as to create 2 allotments if the subdivision was permissible immediately prior to the gazettal of *Yarrowlumla Local Environmental Plan 1993 (Amendment No 6)*.
- (6) When considering an application for consent to a subdivision which would create allotments in accordance with this clause, the council must not consent to the subdivision unless it is satisfied that the following matters have been taken into consideration:
 - (a) the land capability (including soil resources and soil stability), natural constraints and hazards of the land to be subdivided, in relation to the density of the allotments proposed to be created,
 - (b) the desirability of providing a range and mixture of allotment sizes,

- (c) whether the design of each allotment to be created by the subdivision is satisfactory for the economical provision of services and physically suitable for on-site disposal of wastes,
 - (d) the future subdivision pattern and farm plan for the holding,
 - (e) the visual impact of the development from arterial roads,
 - (f) whether an adequate water supply is available to each allotment,
 - (g) the agricultural productivity of the land, and
 - (h) whether the subdivision adversely impacts on the agricultural operation of neighbouring properties.
- (7) Land identified as Class 1, 2 or 3 on a map prepared by the Department of Agriculture and held in the office of the Council is not to be subdivided so as to create a parcel of less than 16 hectares.
- (8) The Council may consent to the subdivision of land to which this clause applies so as to create an allotment of any size if it is satisfied that the allotment is intended to be used for a purpose for which development may lawfully be carried out on that land, but not for the purpose of agriculture or dwelling-houses.

13 Land within Zone No 1 (d)

- (1) This clause applies to land within Zone No 1 (d).
- (2) The Council shall not consent to the subdivision of land to which this clause applies otherwise than in accordance with subclause (3) or (4).
- (3) The Council may consent to the subdivision of land to which this clause applies if it is satisfied that each allotment proposed to be created by the subdivision will have:
 - (a) an area of not less than 8 hectares,
 - (b) an adequate ratio of depth to frontage, having regard to the purposes for which the allotment is likely to be used, and
 - (c) boundaries that are appropriately located, having regard to the topography of the land proposed to be subdivided.
- (4) The Council may consent to the subdivision of land to which this clause applies if it is satisfied that:
 - (a) the average area of the allotments proposed to be created by the subdivision (excluding any allotment having an area of more than 16 hectares or less than 4 hectares) will be not less than 8 hectares,

- (b) none of the allotments proposed to be created by the subdivision will have an area of less than 2 hectares,
 - (c) not more than 15 per cent of the land (excluding any part of the land that is comprised of allotments having an area of more than 16 hectares) is to be comprised of allotments having an area of less than 4 hectares,
 - (d) allotments having an area of less than 4 hectares will not be clustered in groups of more than 3 such allotments,
 - (e) each allotment having an area of less than 4 hectares will have frontage to a public road other than a main or arterial road, and
 - (f) the land has an area greater than 16 hectares if the land has previously been subdivided in accordance with this clause, clause 14 (4) of *Yarrowlumla Local Environmental Plan 1986*, or clauses 11B or 11C of *Interim Development Order No 1—Shire of Yarrowlumla*.
- (5) Notwithstanding subclause (4), the Council shall not consent to the subdivision of land to which this clause applies and shown hatched on the “map” unless it is satisfied that each allotment proposed to be created by the subdivision will have an area of not less than 8 hectares.

13A Land within Zone No 1 (d1)

- (1) This clause applies to land within Zone No 1 (d1).
- (2) The Council shall not consent to the subdivision of land to which this clause applies otherwise than in accordance with subclauses (3) and (4).
- (3) The Council may consent to the subdivision of land to which this clause applies if it is satisfied that allotments proposed to be created by the subdivision will have:
 - (a) an average area of not less than 6 hectares,
 - (b) an area of not less than 2 hectares each,
 - (c) an adequate ratio of depth to frontage, having regard to the purposes for which each allotment is likely to be used,
 - (d) boundaries that are appropriately located, having regard to the topography of the land proposed to be subdivided, and
 - (e) a frontage to a road, other than a main or arterial road, in the case of each lot that is less than 16 hectares in area.
- (4) Notwithstanding subclause (3) (b), the Council may consent to the subdivision of land within Zone No 1 (d1) that creates allotments of less than 2 hectares, but not less

than 1,000 square metres in area, but only if those allotments are provided with a common water and sewerage infrastructure.

- (5) The Council shall not consent to the subdivision of land to which this clause applies unless it has taken into consideration:
- (a) the land capability (including soil resources and soil stability), natural constraints and hazards of the land to be subdivided in relation to the density of the allotments proposed to be created,
 - (b) the desirability of providing a range and mixture of allotment sizes,
 - (c) whether each allotment to be created by the subdivision is satisfactory for the economic provision of services,
 - (d) the findings of a site specific investigation (undertaken by a person with qualifications satisfactory to the Council) of land capability and hydraulic/nutrient balance to ascertain whether the land has adequate capability for on-site effluent disposal and whether or not such disposal will adversely affect water quality or adjoining land through either surface or sub-surface flows,
 - (e) the visual impact of the development from arterial roads,
 - (f) whether an adequate water supply will be available to each allotment,
 - (g) the agricultural productivity of the land, and
 - (h) the findings of an assessment (undertaken by a person with qualifications satisfactory to the Council) of the impacts of the development on flora and fauna, including impacts on regionally significant species and communities, and
 - (i) the Aboriginal archaeology of the locality.
- (6) The Council must not grant a consent that will allow land to which this clause applies that is identified as Class 1, 2 or 3 on a map prepared by the Department of Agriculture held in the office of the Council to be alienated from agricultural uses.
- (7) The Council must not grant consent to a subdivision of land to which this clause applies if the land has been previously subdivided in accordance with this clause.

14 Land within Zone No 1 (g)

- (1) This clause applies to land within Zone No 1 (g).
- (2) The Council shall not consent to the subdivision of land which this clause applies otherwise than in accordance with this clause.
- (3) The Council may consent to the subdivision of land to which this clause applies if it is satisfied that each allotment proposed to be created by the subdivision will have:

- (a) an area of not less than 1 hectare,
 - (b) an adequate ratio of depth to frontage, having regard to the purposes for which the allotment is likely to be used,
 - (c) boundaries that are appropriately located, having regard to the topography of the land proposed to be subdivided,
 - (d) frontage to a public road other than a main or arterial road, and
 - (e) access to reticulated water and sewerage infrastructure.
- (4) The Council may consent to a subdivision of land to which this clause applies if the subdivision will create a title for an existing dwelling-house by excising an allotment from the land on which it is situated.

15 Land within Zone No 2 (v)

- (1) The Council may consent to the subdivision of land within Zone No 2 (v) so as to create an allotment that the Council is satisfied is intended to be used for the purpose of a dwelling-house if the allotment has an area of 450 square metres or more in the sewered areas of the Village Zone and 2,000 square metres or more in the unsewered areas of the Village Zone.
- (2) The Council may consent to the subdivision of land so as to create an allotment of less than 450 square metres in the sewered areas of the Village Zone that the Council is satisfied intended to be used for any permissible development (other than dwelling-houses, residential flat buildings, boarding houses, motels and the like) if the Council is satisfied that such an allotment is considered appropriate having due regard to the purpose for which it is being created.
- (3) Notwithstanding subclause (1), the Council may consent to an application for the subdivision of land with Zone No 2 (v) to create allotments of less than 2,000 square metres, but not less than 1,000 square metres in the unsewered areas of the Village Zone, only if the Council has available to it a detailed analysis including consideration of:
 - (a) slope,
 - (b) ground cover,
 - (c) soil permeability,
 - (d) transpiration factors,
 - (e) proximity of proposed dwellings to flow lines, and
 - (f) relative location of proposed dwellings to proposed waste disposal systems and

each other.

16 Subdivision savings provision

Nothing in this plan shall prohibit or restrict a subdivision of land in Zone No 1 (a), 1 (d), 1 (d1), 1 (g), 2 (v), 7 (e) or 7 (g) for any one of the following purposes:

- (a) the opening or widening of a public road,
- (b) minor adjustments to common property boundaries,
- (c) to rectify an encroachment on a 1986 holding,
- (d) to enlarge the area of a 1966 holding by amalgamating that 1966 holding with one or more other 1966 holdings.

Division 2 Residential development

17 Dwelling-houses

- (1) Development for the purposes of a dwelling-house may not be carried out on an allotment of land within Zone No 1 (a), 7 (e) or 7 (g) unless:
 - (a) the allotment:
 - (i) has an area of not less than 80 hectares, or
 - (ii) comprises an allotment created pursuant to clause 12, and
 - (b) in the case of an allotment created pursuant to clause 12 (4)—the dwelling-house is ancillary to the use of the allotment for some other purpose for which development may lawfully be carried out on the allotment.
- (2) Development for the purposes of a dwelling-house may not be carried out on an allotment of land within Zone No 1 (d) unless the allotment:
 - (a) has an area of not less than 8 hectares, or
 - (b) comprises an allotment created pursuant to clause 13.
- (2A) Development for the purposes of a dwelling-house may not be carried out on an allotment of land within Zone No 1 (d1) unless the allotment:
 - (a) has an area of not less than 6 hectares, or
 - (b) comprises an allotment created pursuant to clause 13A.
- (3) Development for the purposes of a dwelling-house may not be carried out on an allotment of land within Zone No 1 (g) unless the allotment:
 - (a) has an area of not less than 1 hectare, or

- (b) is an allotment created pursuant to clause 14.
- (4) Not more than one dwelling-house may be erected on an allotment of land within Zone No 1 (a), 1 (d), 1 (d1), 1 (g), 7 (e) or 7 (g).
- (5) Notwithstanding subclause (4), one additional dwelling-house may, with the consent of the Council, be erected on an allotment of land within Zone No 1 (a), 7 (e) or 7 (g) (being an allotment having an area of not less than 80 hectares) for each 80 hectares of the land, if the Council is satisfied that each such additional dwelling-house will be occupied by a person employed or engaged by the owner of the land in the use, for the purposes of agriculture, of that land, or of other land that belongs to that owner and that adjoins or is adjacent to that land.
- (6) Notwithstanding subclause (4), a dwelling-house may, with the consent of the Council, be erected on an allotment of land within Zone No 1 (a), 1 (d), 1 (d1), 1 (g), 7 (e) or 7 (g) on which another dwelling-house is situated if the firstmentioned dwelling-house is intended to wholly replace the secondmentioned dwelling-house.
- (7) Notwithstanding any other provision of this plan, a dwelling-house may, with the consent of the Council, be erected on an allotment of land within Zone No 1 (a), 1 (d), 1 (d1), 1 (g), 7 (e) or 7 (g) if:
- (a) the allotment is a 1966 holding on which there is erected no other dwelling-house, or
 - (b) the allotment is a 1995 holding on which a dwelling-house could have been lawfully erected immediately before the appointed day, or
 - (c) the allotment is less than 80 hectares in area and was created with the consent of the Council and a dwelling-house could have been lawfully erected on the allotment prior to the gazettal of *Yarrowlumla Local Environmental Plan 1993 (Amendment No 6)*.
- (8) Before granting consent for a dwelling-house on land within zone No 1 (g) that does not have access to reticulated water and sewerage infrastructure, the Council must be satisfied:
- (a) that, after its consideration of an on-site effluent disposal report, the parcel of land has an adequate capability for on-site effluent disposal and that such disposal will not affect the water quality on adjoining land through either surface or sub-surface flows, and
 - (b) that the dwelling-house will not form a dual occupancy building.

18 Rural dual occupancy

- (1) This clause applies to land within Zone No 1 (a), 1 (d), 1 (d1) or 1 (g).

- (2) Where in accordance with clause 17 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 the consent of the Council:
 - (a) erect a dual occupancy building, or
 - (b) alter or add to a dwelling-house so as to create a dual occupancy building.
- (3) The Council shall not consent to the erection or creation of a dual occupancy building on land that is, in the opinion of the Council, prone to flooding.

19 Cluster housing development

- (1) This clause applies to land within Zone No 1 (d) or 1 (d1) and to the land referred to in Schedule 2.
- (2) A person may, with the consent of the Council, carry out cluster housing development on land to which this clause applies.
- (3) For the purpose of this clause, **cluster housing development** means:
 - (a) the subdivision of land under the *Community Land Development Act 1989*, and
 - (b) the erection of a single dwelling-house on one or more of the lots created by the subdivision.
- (4) The Council shall not consent to the carrying out of cluster housing development on land to which this clause applies unless:
 - (a) each lot to be created by the development has an area of not less than 1000 square metres,
 - (b) not more than 1 dwelling-house is proposed to be erected:
 - (i) in the case of land within Zone No 1 (d)—for each 6 hectares of the land on which the development is proposed to be carried out, or
 - (ii) in the case of land referred to in Schedule 2—on each lot created by the subdivision, and
 - (c) in the case of land referred to in Schedule 2—the development complies with the conditions (if any) specified in that Schedule in relation to that land.
- (5) When considering the size and number of allotments to be created for the purposes of cluster housing development, the Council shall not consent to the subdivision unless it is satisfied that the following matters have been taken into consideration by the applicant:
 - (a) the land capability (including soil resources and soil stability), natural constraints and hazards of the land to be subdivided in relation to the density of the

allotments proposed to be created,

- (b) the desirability of providing a range and mixture of allotment sizes,
- (c) whether the design of each allotment to be created by the subdivision is satisfactory for the economical provision of services and physically suitable for on-site disposal of wastes,
- (d) the findings of a permeability test to ascertain whether the land has adequate capability for on-site effluent disposal and that such disposal will not adversely affect water quality or adjoining land through either surface or sub-surface flows,
- (e) the visual impact of the development from arterial roads,
- (f) whether an adequate water supply is available to each allotment.

(6) Where land to which this clause applies is being used for the purposes of cluster housing development, further subdivision of the land is prohibited.

Division 3 Conservation of heritage items

20 Heritage items

- (1) A person shall not, in respect of a building, work, relic, tree or place that is heritage item:
 - (a) demolish or alter the building or work,
 - (b) damage or move the relic or place, or excavate for the purpose of exposing the relic,
 - (c) damage or despoil the place or tree,
 - (d) erect a building on or subdivide land on which the building, work or relic is situated, or that comprises the place, or
 - (e) damage any tree on land on which the building, work or relic is situated or on the land which comprises the place,except with the consent of the Council.
- (2) The Council shall not grant consent to a development application required by subclause (1) unless it has taken into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the item and any stylistic or horticultural features and its setting.

21 Development in the vicinity of heritage items

The Council shall not grant consent to an application to carry out development on land in

the vicinity of a heritage item unless it has made an assessment of the effect the carrying out of that development will have on the heritage significance of the item and its setting.

22 Advertised development

- (1) The following development is identified as advertised development:
 - (a) the demolition of a heritage item or a building, work, relic, tree or place in a heritage conservation area,
 - (b) development for the purposes of:
 - (i) industries, other than rural industries, in Zone No 1 (a) or 1 (d), and
 - (ii) commercial stockholding yards; intensive livestock keeping establishments; liquid fuel depots; motels; sawmills.
- (2) Subclause (1) (a) does not apply to the partial demolition of a heritage item or of a building or work within a heritage conservation area if, in the opinion of the consent authority, 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.

22A Notification of demolition to the Heritage Council

Before granting consent for the demolition of a heritage item identified by this plan as being of State significance, the consent authority must notify the Heritage Council about the application and take into consideration any comments received in response within 28 days after the notice is sent.

23 Provisions relating to heritage items covered by a conservation instrument

Clauses 20 and 22 shall not apply where the building, work, relic or place that is a heritage item is the subject of a conservation instrument within the meaning of, and made pursuant to, Part 2 of the [Heritage Act 1977](#).

Division 4 Miscellaneous

24 Flood liable land

- (1) A person must not, except with the consent of the Council, erect a building or carry out a work for any purpose on land that is, in the opinion of Council, liable to flooding.
- (2) The Council shall not grant consent to the carrying out of development on land that is, in opinion of the Council, liable to flooding unless it is satisfied that adequate measures are taken to:
 - (a) reduce the impact of flooding on the land,

- (b) prevent the incidence of structural damage likely to be caused to any buildings to be located on the land, and
- (c) enable the evacuation of people and limit any cost to the community of evacuation.

25 Land subject to bushfire hazards

The Council must not consent to the subdivision of land or to the erection of a building on land which is subject to bushfire hazards because of the vegetation on the land or on any adjacent land unless, in the opinion of the Council:

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

26 Development along main roads

- (1) The Council must not consent to the carrying out of development on or with respect to land which has frontage to a main road, unless:
 - (a) access to that land is provided by a road other than the main road, wherever practicable, and
 - (b) in the opinion of the Council, the safety and efficiency of the main road will not be adversely affected by:
 - (i) design of the access to the proposed development,
 - (ii) the emission of smoke or dust from the proposed development, or
 - (iii) the nature, volume or frequency of vehicles using the main road to gain access to the proposed development.
- (2) The Council may consent to the carrying out of development on land having frontage to a main road only if, in the opinion of the Council, the development is likely not to detract from the visual amenity of the locality and is in the community interest.
- (3) The Council must not consent to the carrying out of development on or with respect to land within Zone No 1 (a), 1 (d), 1 (d1) or 1 (g) for any purpose listed in Schedule 3 if the granting of that consent will result in persons using the land having direct access to:
 - (a) a main road, or
 - (b) a road connecting to a main road, if access to the land is within 90 metres (measured along the road alignment of the connecting road) of the alignment of

the main road.

27 Development on ridgetops in rural areas

- (1) This clause applies to land within Zone No 1 (a), 1 (d), 1 (d1), 1 (g), 7 (e) or 7 (g).
- (2) The Council may consent to the carrying out of development on land to which this plan applies on or near any ridgeline visible from any public road only if, in the opinion of the Council, the development is likely not to detract from the visual amenity of the rural area and is not in conflict with the community interest.
- (3) In determining whether to grant consent, the Council shall consider the following:
 - (a) the height and location of any building that will result from carrying out the development,
 - (b) the reflectivity of materials to be used in carrying out the development,
 - (c) the likely effect of carrying out the development on the stability of the land,
 - (d) any bush fire hazard,
 - (e) whether landscaping proposals satisfactory to the Council have been made,
 - (f) whether the development is essential to the viability of the use of the land concerned.

28 Major visual corridors

- (1) This clause applies to all land within 400 metres of, or such greater distance as, in the opinion of the Council, is within the visual corridor of:
 - (a) the Monaro Highway,
 - (b) Trunk Road No 51,
 - (c) the Federal Highway, or
 - (d) the Barton Highway.
- (2) In considering an application for development consent in relation to land which this clause applies, the Council shall have regard to:
 - (a) the significance of the land as part of a visual corridor of regional importance,
 - (b) the visual impact of the proposed development as viewed from the roads identified in subclause (1),
 - (c) what measures are available to minimise any adverse visual impacts, and
 - (d) the matters referred to in clause 27 (3) (a), (b), (e) and (f).

(3) Where the development consent so sought relates to subdivision, the Council shall have regard to:

- (a) whether the lots proposed to be created will have a site for a dwelling-house that, in the opinion of the Council, will be satisfactory, having regard to the matters referred to in subclause (2) (a)-(d), and
- (b) whether the site or sites for dwelling-houses should be restricted by a condition of the consent, if it is granted.

29 Provision of services

The Council shall not consent to the carrying out of any development on any allotment of land to which this plan applies unless it is satisfied that adequate arrangements have been made for vehicular access to the allotment, the provision of electricity, water, landscaping and sewerage for the allotment and drainage of the allotment.

30 (Repealed)

31 Access

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

32 Development for certain additional purposes

Nothing in this plan prevents a person, with the consent of the Council, from carrying out development on land referred to in Schedule 5 for a purpose specified in relation to that land in that Schedule, subject to such conditions, if any, as are so specified.

Schedule 1 Heritage items

(Clause 6 (1))

- 1 The Anglican Church, Gibraltar Street, Bungendore
- 2 The Court House, Gibraltar Street, Bungendore
- 3 The Railway Station, Bungendore
- 4 The original buildings of the Bungendore Public School
- 5 The Catholic Church, Turallo Terrace, Bungendore
- 6 The Uniting Church, Butmaroo Street, Bungendore
- 7 St Thomas Anglican Church, Captains Flat Road
- 8 "Carwoola" Homestead, Captains Flat Road
- 9 "Parkwood" Homestead and Church and their curtilage, Parkwood Road

Schedule 2 Cluster housing

(Clause 19)

Land being lot 33, DP 226218, part Portion 5 and Portion 114, Parish of Googong—each lot created having an area of not less than 1000 square metres and not more than 1 dwelling-house to be erected for each 2 hectares of the land on which the development is to be carried out.

Land being lots 1, 2 and 3, DP 587805, Parish of Currandooly—not more than 52 lots each having an area of not less than 0.8 hectares and one lot having an area of not less than 90 hectares being open space and the erection of not more than 1 dwelling-house on each of the firstmentioned lots.

Land, being Lots 1 and 2, DP 772168, Parish of Carwoola—subdivision into allotments (each having an area of not less than 0.2 hectare) and common property under the [Community Land Development Act 1989](#) and use of the allotments for rural residential purposes and the common property for open space purposes, subject to the conditions that:

- (a) consent to the carrying out of the development is granted within five years from the day on which *Yarrowlumla Local Environmental Plan 1993 (Amendment No 2)* took effect or within such longer period as the Minister may, before the expiration of that period of five years, notify by order published in the Gazette, and
- (b) the Council must not grant consent to such a subdivision unless it has given the Environment Protection Authority notice of the development application and the Council is satisfied that the land has an adequate capability for on-site effluent disposal and that such disposal will not affect the quality of surface water after taking into account any submission made by that Authority to the Council about those matters within 28 days after the notice is sent.

Land being part Lot 61, Lot 132, part Lot 133, part Lot 192 and Lot 193, DP 754893, Kings Highway, Parish of Majura, as shown edged heavy black on the map marked "*Yarrowlumla Local Environmental Plan 1993 (Amendment No 16)*"—subdivision under the [Community Land Development Act 1989](#) into not more than 29 allotments (each having an area of not less than 0.7 hectares) and neighbourhood property and use of the allotments for rural residential purposes and the neighbourhood property for open space and agricultural purposes, subject to conditions that:

- (a) consent to the carrying out of the development is granted within five years from the day on which *Yarrowlumla Local Environmental Plan 1993 (Amendment No 16)* took effect or within such longer period as the Minister may, before the expiration of that period of five years, notify by order published in the Gazette, and
- (b) the Council must not grant consent to such a subdivision unless it is satisfied that:
 - (i) the land has an adequate capability for on-site effluent disposal and that such disposal will not affect the quality of surface or ground water,
 - (ii) the proposed methods of on-site effluent disposal will be consistent with the Environment and Health Protection Guidelines 'On-site Sewage Management for Single Households' dated January 1998, a copy of which may be inspected at the office of the Council, and
 - (ii) the subdivision makes provision for a reticulated, non-potable water supply to each neighbourhood lot with sufficient capacity to be used for fire fighting, toilet flushing and

garden irrigation purposes.

Schedule 3 Restricted development along main roads

(Clause 26 (3))

Bulk store
Caravan park
Car repair station
Club
Commercial premises
Educational establishment
Hospital
Industry (other than home or rural industry)
Institution
Junk yard
Liquid fuel depot
Mine
Motel
Places of public assembly
Places of public worship
Recreation establishment
Recreation facility
Refreshment room
Retail plant nursery
Roadside stall
Saw mill
Service station
Stock and sale yard
Transport terminal
Warehouse

Schedule 4 (Repealed)

Schedule 5 Development for additional purposes

(Clause 32)

Land being lot 2, DP 787796, Parish of Googong—precision engineering works.

Land being lot 10, DP 264443, Lot 1, DP 421614 and Portion 225, Parish of Bywong—erection of a dwelling-house.

Land being lot 2, DP 218721, Wickerslack Lane, Parish of Googong—bakery.

Land being lot 103, DP 705692, Parish of Carwoola—commercial premises and service station.

Land being lot 18, DP 793294, Parish of Wamboin—bus depot.

Land being lot 2, DP 703432, Mountain Creek Road, Parish of Urayarra—logging equipment workshop.

Land being part of lot J, DP 38379, Parish of Currandooly—access road to an extractive industry site.

Land being lots 5, and 6, DP 800637, lot 96, DP 754880, Parish of Ginninderra—subdivision into 3 lots (each having an area of no more than 80 hectares), the erection of a dwelling-house on each of the lots so created and the creation of a road reserve.

Land being lot 15, DP 264443, Parish of Bywong—erection of a dwelling-house.

Land being lot 5, DP 219695, Parish of Googong—erection of a dwelling-house.

Land being lots 1, 2, 3 and 4, DP 249946, Parish of Goorooyarroo—erection of a dwelling-house.

Land being part lot 22, DP 715621, Parish of Currandooly—access road to extractive industry located on lot 21, DP 715621, Parish of Currandooly.

Land being lot 31, DP 561406, Parish of Wamboin—retail winery and manager's residence.

Land being lot 15, DP 976557, Parish of Currandooly—antique shop.

Land being lot 105, DP 754881, Old Cooma Road, Queanbeyan, Parish of Googong—dwelling-house.

Land being lot 2, DP 703432, Mountain Creek Road, Parish of Urayarra—dwelling-house.

Land being lot 105, DP 754881, Parish of Googong—dwelling-house.

Land being lot 17, and Part lot 29, DP 751806, Parish of Bumbalong—youth camp and caretaker's cottage.

Land being lot 9, DP 245149, Parish of Bywong—retail winery.

Land being lot 31 and Part lot 32 (access) DP 634213, Parish of Currandooly—extractive industry.

Land being lot 7, DP 261221, Parish of Carwoola—housing, servicing and repair of not more than four trucks.

Land being lot 2, DP 740249, Parish of Queanbeyan, as shown edged heavy black on the map marked "*Yarrowlumla Local Environmental Plan 1993 (Amendment No 1)*"—youth training centre.

Land being lot 2, DP 253616, McCarthy Road, Parish of Wallaroo, as shown edged heavy black on the map marked "*Yarrowlumla Local Environmental Plan 1993 (Amendment No 10)*"—bed and breakfast establishment.

Land being lot 4, DP 846794, Mac's Reef Road, Parish of Bywong, as shown edged heavy black on the map marked "*Yarrowlumla Local Environmental Plan 1993 (Amendment No 11)*"—computer technology enterprise, being an enterprise involving the design and production of computer components and software but only if:

(a) the building used for the enterprise has a gross floor area not exceeding 400 square metres and is erected within the curtilage of a dwelling-house occupied by the person carrying on the enterprise, and

(b) the enterprise does not:

- (i) interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise,
- (ii) involve exposure to view from any adjacent premises or from any public place of any unsightly matter,
- (iii) employ any more than 10 employees, other than the permanent residents of the dwelling-house, or
- (iv) involve retail sale from the premises of any products produced on site.

Land being Part Portions 110 and 124 and Part Lot 1, DP 808393, Parish of Googong, as shown edged heavy black on the map marked "*Yarrowlumla Local Environmental Plan 1993 (Amendment No 5)*"—extractive industry involving:

- (a) placing of overburden, relocation of the primary crusher and water management works on part of Portion 110 and Lot 1, DP 808393, and
- (b) construction of a workshop and water management works on part of Portion 124.

Land in Millpost Lane, being:

- Portions 170–175, 184 and 213, Parish of Majura, and
- Lot 40, DP 976607, Parish of Majura, and
- Lots 1 and 2, DP 743928, Parish of Majura, and
- Portion 206, Parish of Majura, and

as shown edged heavy black on the map marked "*Yarrowlumla Local Environmental Plan 1993 (Amendment No 6)*"—erection of a dwelling-house on each parcel of land, but only if the Council is satisfied:

- (a) that each site for a dwelling-house is suitable for the economical provision of services and that an all-weather access is available to provide safe entrance to and exit from the land, and
- (b) that, after its consideration of an on-site effluent disposal report, each parcel of land has an adequate capability for on-site effluent disposal and that such disposal will not affect water quality on adjoining land through either surface or sub-surface flows, and
- (c) that the water supply to the dwelling-house will not have a significant adverse impact on ground water resources, and
- (d) that the dwelling-house will not form part of a dual occupancy building.

Land being parts of Lot 3, DP 700781, Joe Rocks Road, Parish of Wamboin, as shown edged heavy black on the map marked "*Yarrowlumla Local Environmental Plan 1993 (Amendment No 22)*"—breeding and selling of exotic and native birds.

Land being Portion 1, Portion 3, Portion 21 and Portion 44, DP 751806, Parish of Bumbalong, shown edged heavy black on the map marked "*Yarrowlumla Local Environmental Plan 1993 (Amendment No*

19.)"—access to a youth camp situated on Lot 1, DP 841149.

Land being Lot 5, DP 252074, The Forest Road, Parish of Wamboin, Gearys Gap, as shown edged heavy black on the map marked "*Yarrowlumla Local Environmental Plan 1993 (Amendment No 24)*"—retail winery.

Land being Lot 101, DP 802461 and Lot 57, DP 754914, Brooklands Road, Parish of Wallaroo, as shown edged heavy black on the map marked "*Yarrowlumla Local Environmental Plan 1993 (Amendment No 25)*"—subdivision under the [Community Land Development Act 1989](#) for the purpose of a vineyard and the erection of not more than two dwelling-houses.

Land being Lot 7, DP 592796, Parishes of Googong, Burra, Urialla, Yarrow and Carwoola, as shown edged heavy black on the map marked "*Yarrowlumla Local Environmental Plan 1993 (Amendment No 35)*"—hydroelectricity generating station.