

# Weddin Local Environmental Plan 2002

[2002-469]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

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

### Authorisation

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New South Wales

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# Weddin Local Environmental Plan 2002



New South Wales

## Part 1 Preliminary

### 1 Name of plan

This plan is *Weddin Local Environmental Plan 2002*.

### 2 Aim of the plan

The aim of this plan is to provide for the ecologically sustainable development of the local government area of Weddin.

### 3 Objectives of the plan

(1) The general objectives of this plan in respect of the following activities are:

#### (a) Agriculture

To conserve agricultural land for primary production.

To promote the environmental management and use of rural land.

To promote sustainable agriculture and provide opportunities for value adding to, or processing of, agricultural products.

#### (b) Forestry

To encourage both native and exotic forestry activities that will contribute to the economic development of the area.

To encourage ecologically sustainable management of forestry.

#### (c) Tourism

To enable the development of tourist orientated activities and the conservation of natural, built and social tourist attractions.

#### (d) Commercial development

To provide the opportunity for the development, enhancement and retention of commercial activities in towns and villages of the area.

(e) **Social and cultural development**

To enable the development and continuation of social and cultural activities throughout the area.

(f) **Industrial development**

To enable the development of new and expansion of existing industrial development, which will contribute to the local economy and employment within the area.

(g) **Flood prone development**

To promote the awareness of flooding and the use of appropriate measures to minimise the risks to life and property.

(h) **Heritage, environment and conservation**

To maintain, develop and enhance the unique character of the area's natural environment and cultural heritage for current and future generations.

(i) **Town and village development**

To promote development within the towns and villages to reflect and enhance the character and amenity of each and to provide for further urban expansion.

(j) **Rural residential**

To enable the development of rural residential land near existing urban centres and to provide an alternative lifestyle opportunity within the capabilities of the land to sustain the landuse.

(k) **Small farms**

To provide areas of land close to urban centres for small farm development on better quality agricultural lands.

(l) **Rural retreats**

To enable the development of rural retreat lifestyle opportunities which are compatible with environmental capabilities of the land in localities which have limited agricultural potential.

(m) **Mineral resources and extractive industries**

To enable the development of extractive and mineral resources in a manner which is environmentally sound and compatible with adjoining land uses.

(n) **Advertising and signage**

To ensure that advertising and signage:

- (i) is compatible with the desired amenity and visual character of a locality, and
- (ii) does not adversely affect the locality in terms of appearance, size, illumination or overshadowing or in any other way, and
- (iii) does not lead to visual clutter through the proliferation of signs.

(2) The particular objectives adopted for the land use zones created by this plan to achieve the general objectives referred to above are set out in relation to the respective zones in the Table to clause 10.

#### **4 Where the plan applies**

This plan applies to all land within the local government area of Weddin.

#### **5 Relationship to other environmental planning instruments**

This plan repeals *Interim Development Order No 1—Municipality of Grenfell* and *Interim Development Order No 1—Shire of Weddin*.

#### **6 Consent authority**

Weddin Shire Council is the consent authority for any development requiring consent under the provisions of this plan, subject to the Act.

#### **7 Definitions**

(1) In this plan:

**abattoir** means a building or place used for the slaughter of animals or for the processing of animal carcasses or by products, but does not include a butcher shop.

**agricultural machinery showroom** means a building or place used for the display and sale of agricultural machinery, whether or not agricultural machinery accessories are also displayed or sold there.

**agriculture** means the cultivation of crops and the keeping or breeding of livestock, bees or poultry for commercial purposes, but (in Part 2) does not include the use of feedlots or piggeries, intensive animal establishments or intensive horticultural establishments, or other land uses specifically defined in this plan.

**alter**, in relation to a heritage item, means:

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

**animal establishment** means a place or building used for breeding, boarding,

training or keeping, or caring for, animals for commercial purposes and includes trotting tracks, riding schools, kennels and catteries.

**appointed day** means 1 January 1977.

**arterial road** means any existing road shown on the map by heavy broken black lines.

**bed and breakfast establishment** means a dwelling which provides overnight accommodation for tourists.

**brothel** means a building or place used for prostitution by one or more persons.

**bushfire hazard reduction** means the removal of vegetation in accordance with a fire risk management plan approved in accordance with the provisions of the [Rural Fires Act 1997](#).

**caravan park** means land on which caravans (including moveable dwellings) are placed or erected.

**commercial sign** means an advertisement, whether illuminated or not, which:

- (a) does not exceed one square metre in area, and
- (b) in respect of any place or premises to which it is affixed, contains only:
  - (i) a reference to the identity or a description of the place or premises, or
  - (ii) a reference to the identity or a description of any person residing or carrying on an occupation at the place or premises, or
  - (iii) particulars of any occupation carried on at the place or premises, or
  - (iv) such directions or cautions as are usual or necessary relating to the place or premises or any occupation carried on there, or
  - (v) particulars or notifications required or permitted to be displayed by or under any Act or any Act of the Commonwealth, or
  - (vi) particulars relating to the goods, commodities or services dealt with or provided at the place or premises, or
  - (vii) particulars of any activities held or to be held at the place or premises.

**community centre** means a building or place used for the purpose of providing facilities comprising or relating to any one or more of the following:

- (a) a public library,
- (b) public health services,

- (c) rest rooms,
  - (d) meeting rooms,
  - (e) indoor recreation,
  - (f) child minding facilities,
- or used for any other like purpose.

**Council** means Weddin Shire Council.

**craft establishment** means a building or place used for the manufacture of crafts or the sale of crafts made on the premises to the public.

**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.

**designated development** has the same meaning as in the Act.

**development control table** means the Table to clause 10.

**dual occupancy** means two dwellings, either attached or detached, on the one allotment of land.

**ecologically sustainable development** means using, conserving and enhancing the community's resources so that ecological processes, on which life depends, are maintained, and the total quality of life, now and in the future, can be increased.

**environmentally sensitive land** means land identified as class VII or VIII, or land with a slope greater than 18 degrees, on a map prepared by the Department of Land and Water Conservation, a copy of which is deposited in the office of the Council.

**existing holding** means:

- (a) except as provided by paragraph (b), the area of a lot, portion or parcel as it was on the appointed day, as reduced by:
  - (i) any subsequent subdivision for the purpose of a boundary adjustment, and
  - (ii) any area of the land subsequently excised for a public purpose, or
- (b) where, on the appointed day, a person owned 2 or more adjoining or adjacent lots, portions or parcels, the aggregation of the area of those lots, portions or parcels as they were on the appointed day, as reduced by:
  - (i) any subsequent subdivision for the purpose of a boundary adjustment, and
  - (ii) any area of the land subsequently excised for a public purpose, or



(c) any lot created by a subdivision approved by the Council on or after 24 November 1972 on which a dwelling may have been erected immediately prior to the gazettal of this plan.

(d) each of lots 1035 to 1039 (inclusive) in DP 754578, Parish of Brundah.

**extractive material** means sand, gravel, clay, turf, soil, rock, stone or similar substances, but does not include any metal or mineral.

**financially viable** means providing full-time occupation for at least one of the residents.

**flood prone land** (or **flood liable land**) means land that is susceptible to flooding by the probable maximum flood (PMF) event.

**floodway** means the channel of a river or stream and those portions of the flood plain adjoining the channel which are required to carry and discharge floodwaters.

**heritage conservation area** means land described in Part 1 of Schedule 1.

**heritage item** means a building, work, relic, tree, or place listed in Part 2 of Schedule 1.

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

**intensive animal establishment** means a building or place used for holding cattle, sheep, goats, pigs, poultry, fish, crustaceans or other livestock that are fed by other than natural grazing and includes:

- (a) a poultry farm, or
- (b) a feedlot, or
- (c) a piggery, or
- (d) a dairy,

but does not include a building or place used only for the keeping of livestock, poultry or fish that are intended solely for personal consumption or enjoyment by the owner or occupier of the land or for temporary feeding during or as a result of drought, fire, flood or similar emergency.

**intensive horticultural establishment** means a place used for the growing of commercial crops of plants, whether under cover or not, using intensive agricultural systems, but does not include a nursery or market garden.

**land degradation** means any decline in the quality of natural land resources, commonly caused through improper use of the land by humans and includes the

effects of erosion, sedimentation, dryland salinity, invasion of noxious and woody weeds, soil acidification and structural decline, waterlogging and excessive flooding.

***maintenance***, in relation to a heritage item, means the ongoing protective care of the fabric of a heritage item and its setting.

***market garden*** means a building or place used for the commercial growing of vegetables.

***nursery*** means a place used for growing plants and selling plants by retail, whether or not landscape supplies (including earth products) or other landscape and horticultural products are also sold at the building or place.

***piggery*** means a place or building used for breeding, boarding, training or keeping, or caring for, pigs for commercial purposes.

***plant depot*** means a building or place used for the parking or servicing of movable machinery or equipment, by the owner or lessee of that building or place, that is used in relation to an occupation or business carried on at some other location.

***prime agricultural land*** means land identified as Class 1, 2 or 3 land by the Department of Agriculture and shown on a map held by the Council.

***professional rooms*** mean a room or number of rooms used by not more than 3 professionally qualified people who practise their profession there either separately or in partnership and employ not more than a total of 3 other people there in connection with the practice.

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

***recreation area*** means:

- (a) a children's playground, or
- (b) an area used for sporting activities or sporting facilities, or
- (c) an area used by the Council to provide recreational facilities for the physical, cultural or intellectual welfare of the community, or
- (d) an area used by a body of persons associated for the purposes of the physical, cultural or intellectual welfare of the community to provide recreational facilities for those purposes,

but does not include a racecourse or a showground.

***regrowth*** means vegetation on land which has regrown over a period of not more

than five years since the land was previously cleared for agricultural purposes.

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

**riding school** means a building or place used for the purpose of teaching horse riding skills or hiring horses for recreational riding whether or not accommodation is also provided for the riders.

**tourist facility** means an establishment providing holiday accommodation or recreational facilities, or both, on a short term basis, and may include hotels, motels, bed and breakfast establishments, serviced apartments, holiday cabins, caravan parks, camping grounds, houseboats, and associated swimming pools, golf courses, tennis courts, restaurants, souvenir shops, art and craft galleries and exhibition centres.

**the Act** means the [Environmental Planning and Assessment Act 1979](#).

**the map** means the series of maps marked “Weddin Local Environmental Plan 2002” as amended by the maps, or the specified sheets of maps, marked as follows:

**Editorial note—**

The amending maps are not necessarily listed in the order of gazettal. Information about the order of gazettal can be determined by referring to the Historical notes at the end of the plan.

**waste management facilities** means a place used to store, treat, purify or dispose of waste or to sort, process, recycle, recover, use or reuse material from waste.

(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, and
- (b) a reference to land within a specified zone is a reference to land shown on the map as being in that zone, and
- (c) a reference to a map is a reference to a map deposited in the office of the Council.

## 8 Adoption of Model Provisions

The [Environmental Planning and Assessment Model Provisions 1980](#), except:

- (a) the definitions of **agriculture**, **arterial road**, **extractive material**, **health care professional**, **main road**, **map**, **mine**, **professional consulting rooms** and **tourist facilities** in clause 4 (1), and

- (b) clauses 17, 29, 33 and 34,

are adopted for the purposes of this plan.

## **Part 2 General controls on the development of land**

### **9 Zones indicated on the map**

All land within the area of Weddin is in one of the following zones and shown on the map as indicated below:

Zone No 1 (a) (Agricultural Zone)—edged black and lettered “1 (A)”.

Zone No 1 (ci) (Rural-Residential Zone)—edged black and lettered “1 (Ci)”.

Zone No 1 (cii) (Small Farm Zone)—edged black and lettered “1 (Cii)”.

Zone No 1 (ciii) (Rural Retreat Zone)—edged black and lettered “1 (Ciii)”.

Zone No 2 (t) (Township Zone)—edged black and lettered “T”.

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

Zone No 8 (National Parks and Nature Reserves Zone)—edged black and lettered “8”.

### **10 Zone objectives and development control table**

(1) The objectives of each zone are as set out below:

#### **Zone No 1 (a) (Agricultural Zone)**

The objectives of this zone are:

- (a) to encourage and conserve all forms of agriculture and to conserve prime agricultural lands, and
- (b) to promote the use of agricultural land within its ecological capability, and
- (c) to provide opportunities for people to work and reside in agricultural areas, and
- (d) to establish a preference for non-agricultural development (particularly dwelling-houses) being located on land other than prime agricultural land, unless there are no alternative, practical and cost effective sites available, and
- (e) to enable the efficient recovery of known mineral and extractive resources by controlling the location of development, and
- (f) to provide for other types of development appropriate in agricultural areas, particularly tourist-oriented and employment-generating development within the capability of the land to support the development, and
- (g) to permit development of agricultural allotments of variable size, and
- (h) to minimise the cost of scattered development to the community.

**Zone No 1 (ci) (Rural-Residential Zone)**

The objectives of this zone are:

- (a) to enable appropriate staged development for the purpose of rural-residential holdings to be carried out on land which is suitable for those purposes, and
- (b) to enable a range of land uses and other development to be carried out where such activities are in keeping with the rural character of the locality, compatible with the existing or likely future use of the land for rural-residential development, not adverse to adjacent or surrounding agricultural productivity, and within the capability of the land to support them.

**Zone No 1 (cii) (Small Farm Zone)**

The objectives of this zone are:

- (a) to enable small agricultural holdings to accommodate particular lifestyle choices and needs in conjunction with agricultural activities, and
- (b) to ensure that development is carried out in a manner that maintains options for the continued agricultural development of the land within its ecologically sustainable capabilities, and
- (c) to conserve prime agricultural land by ensuring that it is not unnecessarily converted to non-agricultural purposes, and
- (d) to ensure that any allotments created have sufficient area and arrangements that:
  - (i) enable the provision of an adequate water supply for domestic or agricultural purposes, or both, and
  - (ii) enable effective disposal of all domestic waste, and
  - (iii) do not impact adversely on the water quality of any water catchments, and
- (e) to ensure that development is carried on in a way which is ecologically sustainable and that is sensitive to the environmental characteristics of the land.

**Zone No 1 (ciii) (Rural Retreat Zone)**

The objectives of this zone are:

- (a) to enable small holdings to accommodate particular lifestyle choices and needs in conjunction with the existing natural environment of the locality, and
- (b) to enable development for the purpose of dwellings to be carried out on land

which is suitable for that purpose, and

- (c) to enable a range of land uses or other development to be carried out where the development is in keeping with the rural character of the locality, compatible with the existing or likely future use of the land for dwelling development, not adverse to the adjacent or surrounding natural environment and within the capability of the land to support it, and
- (d) to ensure that the visual and natural features of the land are retained.

**Zone No 2 (t) (Township Zone)**

The objectives of this zone are:

- (a) to identify land to be primarily used for urban development, including residential, commercial and industrial development, and
- (b) to enable other forms of development that are compatible with adjoining land uses within the zone, and
- (c) to enable other development which provides services to residents or has an association with, is compatible with, and is unlikely to adversely affect, residential amenity.

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

The objective of this zone is to recognise existing villages and to enable future development appropriate to their function.

**Zone No 8 (National Parks and Nature Reserves Zone)**

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*.

(2) The development control table identifies, for land within Zones Nos 1 (a), 1 (ci), 1 (cii), 1 (ciii), 2 (t) and 2 (v):

- (a) development that may be carried out without consent, by the letters “NC”, and
- (b) development that may be carried out only with consent, by the letter “C”, and
- (c) development that is prohibited, by the letter “P”.

(3) In Zone No 8:

- (a) development carried out by the National Parks and Wildlife Service in accordance

with a plan of management adopted under the *National Parks and Wildlife Act 1974* is allowed without consent, and

- (b) other uses of land reserved or dedicated under that Act are allowed without consent if authorised by or under that Act, and
  - (c) any other development is prohibited unless it is allowed by Part 3.
- (4) The consent authority may consent to development only if it is satisfied that carrying out the proposed development is consistent with:
- (a) implementing the objectives of the zone in which it will be carried out, as set out in subclause (1), and
  - (b) achieving the aim of this plan, as set out in clause 2, and
  - (c) implementing the relevant general objectives of this plan, as set out in clause 3 (1).
- (5) Any development, other than the demolition of a building or work that is not described in the development control table, is prohibited within Zones Nos 1 (a), 1 (ci), 1 (cii), 1 (ciii), 2 (t) and 2 (v), except as provided by Part 3.
- (6) Despite subclauses (2) and (3), nothing in this plan prohibits, restricts or requires development consent for or allows the consent authority to prohibit or restrict, the use of existing buildings of the Crown by the Crown or the carrying out of any development under clause 35 of the *Environmental Planning and Assessment Model Provisions 1980*.
- (7) Despite any other provision of this plan (except subclause (6)), development specified as designated development in Schedule 3 to the *Environmental Planning and Assessment Regulation 2000* may be carried out within a zone only with development consent. This subclause is subject to the provisions of any State environmental planning policy or regional environmental plan.

### Development control table

Development for the purpose of:	Zone No					
	1 (a)	1 (ci)	1 (cii)	1111 (ciii)	2 (t)	2 (v)
Abattoirs	C	P	P	P	C	C
Advertisements	C	C	C	C	C	C
Advertising structures	C	C	C	C	C	C
Agriculture	NC	NC	NC	NC	P	P

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Airline terminals	C	P	P	P	P	P
Animal establishments	C	P	C	P	C	C
Bed and breakfast establishments	C	C	C	C	C	C
Boarding-houses	P	P	P	P	C	C
Brothels	C	P	P	P	C	C
Bulk stores	P	P	P	P	C	C
Bus depots	C	P	P	P	C	C
Bus stations	C	P	P	P	C	C
Caravan parks	C	C	C	C	C	C
Car repair stations	P	P	P	P	C	C
Child care centres	C	C	C	C	C	C
Clubs	C	P	P	P	C	C
Commercial premises	P	P	P	P	C	C
Craft establishments	C	C	C	C	C	C
Dual occupancies	C	C	C	C	C	C
Dwellings	C	C	C	C	C	C
Educational establishments	C	C	C	C	C	C
Extractive industries	C	P	P	P	P	P
Forestry	C	C	C	C	C	C
General stores	C	C	C	C	C	C
Generating works	C	P	P	P	P	P
Helipads	C	C	C	C	C	C
Heliports	C	C	C	C	C	C
Home industries	C	C	C	C	C	C
Home occupations	NC	NC	NC	NC	NC	NC
Hospitals	C	P	P	P	C	C
Hotels	P	P	P	P	C	C
Industries	P	P	P	P	C	C

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Institutions	C	P	P	P	C	P
Intensive animal establishments	C	P	P	P	P	P
Intensive horticulture establishments	C	C	C	C	P	C
Junk yards	C	P	P	P	C	C
Light industries	C	P	P	P	C	C
Liquid fuel depots	C	P	P	P	C	C
Market gardens	C	C	C	C	C	C
Mines	C	P	P	P	C	C
Mineral sand mines	C	P	P	P	C	C
Motels	C	P	P	P	C	C
Motor showrooms	P	P	P	P	C	C
Nurseries	C	C	C	C	C	C
Offensive or hazardous industries	C	P	P	P	P	P
Other buildings, works, places and land uses not included in this Table	C	C	C	C	C	C
Places of assembly	C	P	P	P	C	C
Places of public worship	C	C	C	C	C	C
Professional rooms	P	C	P	P	C	C
Public buildings	C	C	C	C	C	C
Public utility undertakings	NC	NC	NC	NC	NC	NC
Recreation areas	C	C	C	C	C	C
Recreation establishments	C	C	C	C	C	C
Residential flat buildings	P	P	P	P	C	C
Road transport terminals	C	P	P	P	C	C
Roadside stalls	C	P	C	P	C	C
Rural industries	C	C	C	C	C	C
Rural workers' dwellings	C	C	C	C	C	C

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Sawmills	C	P	P	P	C	C
Service stations	C	P	P	P	C	C
Shops	P	P	P	P	C	C
Stock and sale yards	C	P	C	P	C	C
Tourist facilities	C	C	C	C	C	C
Warehouses	P	P	P	P	C	C
Waste management facilities	C	C	C	C	C	C

## Legend

### Zones Nos

1 (a)	(Agricultural Zone)	
1 (ci)	(Rural-Residential Zone)	
1 (cii)	(Small Farm Zone)	
1 (ciii)	(Rural Retreat Zone)	<b>NC</b> allowed without consent <b>C</b> allowed only with consent
2 (t)	(Township Zone)	<b>P</b> prohibited
2 (v)	(Village Zone)	
8	(National Parks and Nature Reserves Zone)	

### Note—

Development that is permissible without consent of the consent authority (listed as NC in the above Table) may require approval by other authorities before it may be undertaken.

## Part 3 Special provisions

### 11 Development that must be advertised

The following is advertised development for the purposes of the Act:

- (a) development for the purpose of a residential flat building, and
- (b) offensive or hazardous industries, and
- (c) demolishing, defacing or damaging a heritage item and a use of a building or land that, but for clause 38, would be prohibited by this plan.

### 12 General consideration of development in Rural Zones

- (1) Consent may be granted to development on land within Zone No 1 (a), 1 (ci), 1 (cii) or 1 (ciii) only after the consent authority has taken into account the effect of the

carrying out of that development on:

- (a) the present use of the land, the potential use of the land for the purpose of agriculture and the potential of any agricultural land for ecologically sustainable agricultural production, and
  - (b) vegetation, timber production, land capability (including soil resources and soil stability) and water resources (including the quality and stability of watercourses and ground water storage, riparian rights and springs), and
  - (c) the future extraction of known deposits of minerals, coal, petroleum, sand, gravel or other extractive materials and localities considered to be prospective for those materials, and
  - (d) the protection of localities of significance for nature conservation or of high scenic quality or recreational value, and places and buildings of archaeological or heritage significance, and
  - (e) the cost of providing, extending and maintaining amenities and services to the development, and
  - (f) the impact on threatened and endangered species, populations and ecological communities.
- (2) Subclause (1) does not apply to the consideration of an application to carry out development consisting of:
- (a) an addition to a building or work, or
  - (b) development ancillary to a form of development defined for the purposes of this plan and that may be carried out under this plan with consent, or
  - (c) the erection of a dwelling on an allotment created in accordance with this plan for a dwelling.

### **13 Subdivision of land generally**

- (1) Subject to subclause (2), a person may, but only with development consent, subdivide land to which this plan applies.
- (2) Land may be subdivided without development consent where the subdivision is for the purpose of:
  - (a) minor boundary adjustments of allotments where an additional allotment is not created, or
  - (b) consolidation of allotments, except where, in rural areas, this creates lots of 400 hectares or more without a dwelling and the consolidation is development within the meaning of the Act, or

(c) rectifying encroachments along boundaries of allotments.

(3) Consent must not be granted to the subdivision of land within Zone No 1 (a), 1 (ci), 1 (cii) or 1 (ciii) unless the consent authority is satisfied about:

(a) the primary purpose for which each allotment is intended to be used, and

(b) where the primary purpose of an allotment is to erect or use a dwelling or other building, the approximate location of any dwelling or other building erected on the land at the date of the application and the intended location of any dwelling or building proposed to be erected on the land.

#### **14 Subdivision for the purpose of dwellings in Zone No 1 (a)**

(1) This clause applies to land which is within Zone No 1 (a).

(2) An allotment on which a dwelling may be erected, or on which an existing dwelling is erected, may be created, only with development consent, provided the allotment has an area of 400 hectares or more.

(3) Nothing in this plan prohibits consent from being granted to the subdivision of land and the erection of a dwelling on it provided that the allotment is not less than 100 hectares in area and the land is within the area identified by *Development Control Plan 2002* and provided that the maximum number of allotments consented to in any one year under this subclause does not exceed five.

#### **15 Concessional subdivision**

(1) Subject to subclause (2), consent may be granted to the creation of an allotment of more than 2 hectares but less than 20 hectares from an existing holding if the consent authority is satisfied that only a son or daughter of the current owner genuinely engaged in agriculture, will retain ownership of, and occupy, any dwelling erected or proposed to be erected on the allotment for a period of not less than one year from the date of registration of the plan of subdivision in respect of an allotment containing an existing dwelling, or one year from the Council's final inspection of the dwelling to be erected on the allotment.

(2) The number of concessional allotments created under subclause (1) shall not exceed one from each existing holding.

#### **16 Subdivision for the purpose of agriculture in Zone No 1 (a)**

(1) This clause applies to land which is within Zone No 1 (a).

(2) Subject to subclause (3), consent may be granted to the creation of an allotment of any size if the consent authority is satisfied that it will be used for the purpose of agriculture.

- (3) Consent must not be granted to the creation of an allotment that will be used for the purpose of agriculture if that allotment would have an area of less than 400 hectares and there would be an existing dwelling on the allotment.

#### **17 Subdivision for other purposes in Zone No 1 (a)**

Consent may be granted to the creation of an allotment of any size for any permissible purpose (other than a dwelling or agriculture) within Zone No 1 (a) provided the consent authority takes into consideration:

- (a) the capability of the land to sustain the proposed development, and
- (b) the size and shape of the land in respect of the proposed development,

and is satisfied that the proposal will not adversely affect any activities on adjoining land.

#### **18 Subdivision in Zone No 1 (ci)**

- (1) The clause applies to land within Zone No 1 (ci).
- (2) Consent may be granted to a subdivision of land to which this clause applies only if it results in the creation of an allotment which has an area of more than 4,000 square metres but not greater than 2 hectares.

#### **19 Subdivision in Zone No 1 (cii)**

- (1) This clause applies to land which is within Zone No 1 (cii).
- (2) Consent must not be granted to the subdivision of land to which this clause applies which results in the creation of an allotment to be used for the purpose of a dwelling where that allotment is less than 10 hectares in area.
- (3) Consent must not be granted to a subdivision of land to which this clause applies which results in the creation of an allotment on which there is an existing dwelling where that allotment is less than 10 hectares in area.
- (4) Notwithstanding subclauses (2) and (3), consent must not be granted to a subdivision under this clause unless the consent authority is satisfied that the lot sizes permit the siting of dwellings so that they are unlikely to inhibit or give rise to complaints about normal farming practices (such as aerial spraying, separation from noxious odours and the like).

#### **20 Subdivision in Zone No 1 (ciii)**

- (1) The clause applies to land within Zone No 1 (ciii).
- (2) Consent may be granted to the creation of an allotment to be used for the purpose of a dwelling if the allotment has an area of not less than 5 hectares.

- (3) Notwithstanding subclause (1), consent must not be granted to a subdivision under this clause unless the consent authority is satisfied that the lot sizes permit the siting of dwellings so that they are unlikely to inhibit or give rise to complaints about normal farming practices (such as aerial spraying, separation from noxious odours and the like).

## **21 Subdivision for dwellings in Grenfell**

Consent may be granted to a subdivision of land within Zone No 2 (t) which is intended to create allotments for the erection of dwellings only where the consent authority is satisfied that:

- (a) appropriate arrangements have been made for each allotment to be connected to reticulated electricity, a water supply and a sewerage service, and
- (b) any road pattern created by the subdivision is capable of being integrated with existing roads, and
- (c) adequate provision has been made for stormwater drainage, and
- (d) the provision of open space and community facilities is adequate for likely future needs, and
- (e) the location and design of any open space allows effective use by adjacent residents.

## **22 Dwellings—Zone No 1 (a)**

- (1) Consent must not be granted to the erection of a dwelling on a portion or lot of land within Zone No 1 (a) that has an area of less than 400 hectares and is prime agricultural land.
- (2) Despite subclause (1), consent may be granted to the erection of a dwelling on land within Zone No 1 (a) which is prime agricultural land where the land is less than 400 hectares in area, but only if:
  - (a) the land comprises a vacant existing holding, or
  - (b) the proposed dwelling is ancillary to a non-agricultural use carried out on the land, or
  - (c) the proposed dwelling is intended for occupation by a son or daughter of the owner, who is genuinely engaged in agriculture.
- (3) Despite subclauses (1) and (2), consent may be granted to the erection of a dwelling on an allotment of land within Zone No 1 (a) less than 400 hectares in area which is prime agricultural land if:
  - (a) evidence has been provided, to the satisfaction of the consent authority, that the subject land is to be used for intensive agriculture, being evidence which takes the

form of a program of works and includes commencement dates for each stage of the intensive agricultural enterprise, and

- (b) evidence is provided, to the satisfaction of the consent authority, of the practicability of performing the program and that the program will be carried out, and
- (c) the use is financially viable.

**23 Dwellings—Zone No 1 (ci)**

Consent may be granted to the erection of a dwelling on land within Zone No 1 (ci) only if:

- (a) the land has an area of not less than 4,000 square metres and not more than 2 hectares, or
- (b) the land is an existing holding.

**24 Dwellings—Zone No 1 (cii)**

Consent may be granted to the erection of a dwelling on land within Zone No 1 (cii) only if:

- (a) the land has an area of not less than 10 hectares, or
- (b) the land is an existing holding,

and the siting of the dwelling is unlikely to inhibit or give rise to complaints about normal farming practices (such as aerial spraying, separation from noxious odours and the like).

**25 Dwellings—Zone No 1 (ciii)**

- (1) This clause applies to land within Zone No 1 (ciii).
- (2) Consent may be granted to the erection of a dwelling on land to which this clause applies only if the land has an area of not less than 5 hectares.
- (3) Notwithstanding subclause (2), consent may be granted to the erection of a dwelling on land to which this clause applies less than 5 hectares in area if the land is an existing holding.
- (4) Consent must not be granted to the erection of a dwelling in accordance with this clause unless the consent authority is satisfied that the dwelling will be sited so as to be unlikely to inhibit or give rise to complaints about normal farming practice.

**26 Additional dwellings—Zones Nos 1 (a), 1 (ci), 1 (cii) and 1 (ciii)**

Consent may be granted to the erection of one additional dwelling on land within Zone No 1 (a), 1 (ci), 1 (cii) or 1 (ciii) (including the alteration of an existing dwelling to create 2 dwellings) where:

- (a) in the case of land within Zone No 1 (a), the land is 2 hectares or more in area, and
- (b) separate ownership of the proposed dwellings or dwelling could only be achieved by a subdivision of the land, and
- (c) no additional access to a public road is required from the land.

#### **27 Subdivision for dwellings in Zone No 2 (v)**

Consent may be granted to the subdivision of land for the purpose of a dwelling in Zone No 2 (v) only where each allotment of land created by the subdivision has an area of sufficient size:

- (a) to accommodate on-site domestic waste disposal, and
- (b) to retain the village character of the surrounding neighbourhood.

#### **28 Residential flat buildings**

Consent may be granted to the carrying out of development for the purpose of a residential flat building on land within Zone No 2 (t) or 2 (v) only where the consent authority is satisfied that:

- (a) the building will not unreasonably deprive adjoining buildings of sunlight or privacy, and
- (b) the building will generally be compatible with its setting, having regard to the nature and use of adjoining buildings and to the streetscape, and
- (c) the design of the building will be compatible with the existing character of the neighbourhood, and
- (d) the development will not create a condition of over-concentration of residential flat buildings in the neighbourhood.

#### **29 Clearing**

- (1) In this clause, **clearing** means the removal of trees and other vegetation, but does not include the clearing of regrowth from land previously cleared for agricultural use, or the cutting down of individual trees for farming purposes, such as for fencing or firewood.
- (2) Subject to this clause:
  - (a) land within Zone No 1 (a), 1 (ci), 1 (cii) or 1 (ciii) may be cleared for the purpose of air navigation safety, land survey, fencing or bushfire hazard reduction without development consent, and
  - (b) clearing for any other purpose may be carried out only with development consent.



- (3) Nothing in subclause (2) shall authorise the clearing of land in contravention of any Act or instrument made under an Act concerned with soil erosion, protection of a riverbank or other vegetation or catchment areas or the like.
- (4) Subclause (2) does not apply to environmentally sensitive land which requires development consent for clearing (other than clearing for the purpose of bushfire hazard reduction).
- (5) In determining a development application for clearing referred to in subclause (4), the consent authority may attach conditions to minimise the risk of land degradation.
- (6) Nothing in this plan requires any person to gain development consent for clearing where:
  - (a) the provisions of the *Native Vegetation Conservation Act 1997*, or of any regional vegetation management plan made under that Act, exempt the clearing from requiring consent, or
  - (b) a development consent authorising the clearing has been issued under the provisions of the *Native Vegetation Conservation Act 1997*, or any regional vegetation management plan made under that Act.

### **30 Industrial uses in Zone No 1 (a)**

- (1) Subject to clause 31, consent may be granted to development for the purpose of an industry on land within Zone No 1 (a) only if the land is within 5 kilometres of a township or village zone and the consent authority is satisfied that:
  - (a) the land is physically and environmentally suitable for the use, and its use for the purpose would be practical, in regards to size, access, transport routes, topography and services required for that industry, and
  - (b) the industry could not otherwise be accommodated on land within Zone No 2 (t) or 2 (v), and
  - (c) the development will not adversely affect the use and enjoyment of any adjoining land, and
  - (d) the development is located and designed to minimise any adverse impact on any town or village affected by the proposed development, and
  - (e) satisfactory arrangements have been made for the provision of a water supply, the disposal of waste and the construction of drainage works necessary for that development, and
  - (f) where the development is likely to cause noise, visual, air or water pollution, appropriate measures to minimise the effects of that pollution have been employed.

- (2) Nothing in subclause (1) prevents consent from being granted to development on any land within Zone No 1 (a) for the purpose of a rural industry, home industry, extractive industry or an offensive or hazardous industry. However, this subclause is subject to clause 32.

### **31 Restrictions on offensive uses**

Despite the provisions of Part 2 or clause 30, development shall not be carried out for the purpose of intensive animal establishments or offensive or hazardous industries on land which is within 5 kilometres of land which is within Zone No 2 (t) or 2 (v).

### **32 Development along arterial roads**

Development on land fronting an arterial road must not be carried out unless:

- (a) access to that road is provided from a road other than an arterial road, wherever practicable, and
- (b) in the opinion of the consent authority, the safety and efficiency of the arterial road will not be adversely affected by:
  - (i) the design of the access to the proposed development, or
  - (ii) the emission of smoke or dust from the proposed development, or
  - (iii) the nature, volume or frequency of vehicles using the arterial road to gain access to the proposed development, and
- (c) where the development is noise sensitive, satisfactory provisions have been made to reduce the effect of traffic noise on the development.

### **33 Flood affected land**

- (1) No development except for the purpose of agriculture shall be carried out on flood prone land without development consent.
- (2) Consent may be granted to the carrying out of development on land which, in the opinion of the consent authority, is within a floodway only if the consent authority has considered whether the carrying out of the development is likely:
  - (a) to impede the flow of floodwaters on the land, or
  - (b) to endanger the safety of persons on the land in the event of the land being inundated with floodwaters, or
  - (c) to aggravate the consequences of floodwaters flowing on the land with regard to erosion, siltation and the destruction of vegetation, or
  - (d) to have an adverse effect on the watertable of the land or of land in its immediate vicinity, or

- (e) to have an adverse effect on riverbank stability, or
- (f) to increase the level or flow of floodwaters on other land.

#### **34 Roads, drainage, open space and parking**

- (1) Nothing in Part 2 shall prevent the Council from, or requires the Council to obtain its own consent for, or prevents a person with development consent from, carrying out development on land within any zone for the purpose of roads, drainage, open space, recreation areas or parking.
- (2) The reference in subclause (1) to the carrying out of development for the purpose of roads includes a reference to the winning of extractive material by a public authority for the purpose of road construction.

#### **35 Community use of school facilities or sites**

- (1) 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 development consent, be used for the purpose of meeting rooms, public halls, public libraries, entertainment, sport or recreation or for any other community purpose, whether or not any such use is a commercial use of the land.
- (2) Nothing in this clause requires development consent to be granted for the carrying out of development on any land if that development could, but for this clause, be carried out on that land without development consent.

#### **36 Protection of heritage items and relics**

- (1) The following development may be carried out only with development consent:
  - (a) demolishing, defacing, damaging or moving a heritage item, or
  - (b) altering a heritage item by making structural changes to its exterior, or
  - (c) altering a heritage item 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.
- (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.

- (3) Consent must not be granted to a development application required by subclause (1) unless the consent authority has taken into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the item and any stylistic or horticultural features of the item and its setting.

### **37 Notice to Heritage Council**

- (1) Where a person makes a development application for consent to demolish a building or work that is identified in this plan as a heritage item of State significance, the consent must not be granted until 28 days after the consent authority has notified the Heritage Council of its intention to do so.
- (2) Subclause (1) does not apply to the partial demolition of a heritage item if, in the opinion of the Council, the partial demolition will be of a minor nature and will not adversely affect the heritage significance of the heritage item in relation to the environmental heritage of the area of Weddin.

### **38 Development in the vicinity of a heritage item**

- (1) Before granting consent to development in the vicinity of a heritage item, the consent authority must assess the impact of the proposed development on the heritage significance of the heritage item.
- (2) This clause extends to development:
  - (a) that may have an impact on the setting of a heritage item, for example, by affecting a significant view to or from the item or by overshadowing, or
  - (b) that may undermine or otherwise cause physical damage to a heritage item, or
  - (c) that will otherwise have any adverse impact on the heritage significance of a heritage item or of any heritage conservation area within which it is situated.
- (3) The consent authority may refuse to grant any such consent unless it has considered a heritage impact statement that will help it assess the impact of the proposed development on the heritage significance, visual curtilage and setting of the heritage item.
- (4) The heritage impact statement should include details of the size, shape and scale of, setbacks for, and the materials to be used in, any proposed buildings or works and details of any modification that would reduce the impact of the proposed development on the heritage significance of the heritage item.

### **39 Development of known or potential archaeological sites**

- (1) Consent may be granted to the carrying out of development on an archaeological site that has Aboriginal heritage significance or a potential archaeological site that is reasonably likely to have Aboriginal heritage significance only if:

- (a) the consent authority 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 notified to it by the Director-General of National Parks and Wildlife, and
  - (b) it has notified that Director-General of its intention to do so and taken into consideration any comments received from that Director-General within 28 days after the notice was sent, and
  - (c) it is satisfied that any necessary consents or permission under the *National Parks and Wildlife Act 1974* has been granted.
- (2) Consent may be granted 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) the consent authority 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 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.

#### **40 Conservation incentives**

Consent may be granted to the use, for any purpose, of a building that is a heritage item, or of the land on which any such building is erected, even though the use would be otherwise prohibited by this plan, if the consent authority is satisfied that:

- (a) the proposed use would not adversely affect the heritage significance of the item, and
- (b) the conservation of the building depends on the granting of the consent.

### **Schedule 1 Heritage conservation areas and items**

(Clause 7 (1))

#### **Part 1 Heritage conservation areas**

Grenfell Conservation Area

(as defined in the Grenfell Town Centre Heritage Study, 1993 and the Register of the National Trust, 1982)

## Part 2 Heritage items

Grenfell Hospital	Cnr Sullivan Street and Cowra Road Grenfell
Sheriff's Cottage	Forbes Street Grenfell
Police Station and lockup	Forbes Street Grenfell
The Exchange Hotel	37 Main Street Grenfell
The Grenfell Record	41 Main Street Grenfell
The ANZ Bank	77 Main Street Grenfell
Former Bank of New South Wales	Main Street Grenfell
Holy Trinity Church	Middle Street Grenfell
Grenfell Railway Station	West Street Grenfell
Railway Hotel	Main Street and Alexandra Street Grenfell