

Wentworth Local Environmental Plan 1993

[1993-170]



New South Wales

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New South Wales

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Wentworth Local Environmental Plan 1993



New South Wales

Part 1 Preliminary

1 Name of plan

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

2 Aims, objectives etc

The general aims of this plan are:

- (a) to encourage the proper management, development and sustainable conservation of natural and man-made resources within the Shire of Wentworth by protecting, enhancing or conserving:
 - (i) prime agricultural lands,
 - (ii) timber, minerals, soil, water and other natural resources,
 - (iii) places of significance for nature conservation,
 - (iv) places of high scenic or recreational value,
 - (v) places and buildings of archaeological or heritage significance, including aboriginal relics and places, and
 - (vi) the bed and banks of the Murray and Darling Rivers and of the Great Anabranch, and
- (b) to replace the existing local planning controls with a single local environmental plan to help facilitate the growth and development of the Shire of Wentworth in a manner which is consistent with the aims specified in paragraph (a) and which:
 - (i) minimises the cost to the community of fragmented and isolated development of rural land,
 - (ii) facilitates the efficient and effective delivery of amenities and services,
 - (iii) facilitates a range of residential and employment opportunities in accordance with demand,

- (iv) facilitates a range of tourism and recreation opportunities,
- (v) facilitates farm adjustments, and
- (vi) ensures that the efficiency of arterial roads is not adversely affected by development on adjacent land.

3 Land to which plan applies

This plan applies to all land within the Shire of Wentworth, as shown on the map, with the boundaries indicated on the map.

4 Relationship to other environmental planning instruments

Interim Development Order No 1—Shire of Wentworth, Wentworth Local Environment Plan No 6 and such other local environmental plans and deemed environmental planning instruments as, immediately before the appointed day, applied to the land to which this plan applies, are repealed to the extent that they applied to that land.

5 Definitions

(1) In this plan:

aboriginal relic means a relic as defined in the [National Parks and Wildlife Act 1974](#).

alter, in relation to a heritage item that is a building or work, means:

- (a) make structural changes to the outside of the building or work, or
- (b) make non-structural changes to the detail, fabric, finish or appearance of the outside of the building or work, other than non-structural changes that merely maintain the existing detail, fabric, finish or appearance of the outside of the building or work.

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

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

arterial road means:

- (a) an existing road indicated on the map by heavy broken black lines, or
- (b) a classified road within the meaning of the [State Roads Act 1986](#).

bank means the limit of the bed of a river or lake.

bed in relation to a river or lake, means the whole of:

- (a) the soil or other matter forming the channel in which the river flows, or

(b) the soil or other matter forming the bottom of the lake,

and includes so much of the sides and bottom of the channel or of the shores and bottom of the lake as contain the river or lake at its mean level (whether or not the river or lake is for the time being at its mean level) but does not include any part of the sides or bottom of the channel or of the shores or bottom of the lake covered by water in times of flooding only.

community facility means a building or place owned or controlled by a public authority, a body of persons or a person which provides for the physical, social, cultural or intellectual development or welfare of the local community, but does not include a building or place elsewhere defined in this clause.

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

Council means the Council of the Shire of Wentworth.

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

entertainment facility means a building or place used for the purposes of sport, entertainment, exhibitions or displays, and includes:

(a) sports stadiums, showgrounds, racecourses and the like, and

(b) theatres, cinemas, music halls, concert halls, open air theatres, drive-in theatres and the like.

environmentally sensitive land means land which is flood liable, a sandhill or within 100 metres of an escarpment or land shown horizontally cross-hatched with black lines in the Gol Gol, Buronga and Boeill Creek region on the map.

existing holding means:

(a) except as provided by paragraph (b)—the area of a lot, portion or parcel of land as it was as at the appointed day, or

(b) if, as at the appointed day, a person owned 2 or more adjoining or adjacent lots, portions or parcels of land, the combined area of those lots, portions or parcels as they were at the appointed day.

flood liable land means land shown diagonally hatched with black lines on the map or land inundated in either the 1956 or 1974 floods.

heritage conservation area means land shown edged heavy black on the map

marked “*Heritage Conservation Area Map*”.

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

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

horticultural land means land on which potentially commercial vines or fruit trees are permanently planted.

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

- (a) feed lots,
- (b) piggeries,
- (c) poultry farms, and
- (d) fish farms (including farms cultivating crustaceans or oysters),

but does not include an animal boarding or training establishment or land used for the keeping of livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of the land, and does not include short term feeding or feedlots operated during periods of drought or other natural disasters.

lake means a body of intermittent or permanent water.

pastoral land means land which is utilized for the grazing of livestock or for the production of an annual crop, or both.

pool level means the water level of a river created by the nearest downstream weir.

potential historical archaeological site means a site identified on the map as a potential historical archaeological site.

prime crop and pasture land means land within an area identified, on a map prepared by or on behalf of the Director-General of the Department of Agriculture and deposited in the office of the Council, as Class 1, Class 2, Class 3 or Class 4/1 land or as land of merit for special agricultural uses, but does not include land which the Director-General has notified the Council in writing is not prime crop and pasture land for the purposes of this plan.

recreation facility means a building or place used for sporting, recreation or leisure activities, whether or not operated for the purpose of gain, and includes a children’s

playground but does not include a building or place elsewhere defined in this clause.

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

restaurant means a building or place the principal purpose of which is the provision of food to people for consumption on the premises.

river means the Murray River, the Darling River, the Great Anabranch, Tuckers Creek, Gol Gol Creek, Frenchmans Creek and the Rufus River and their associated wetlands.

the map means the map marked “*Wentworth Local Environmental Plan 1993*”, as amended by the maps (or, if any sheets of maps are specified, by the specified sheets of the 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.

Wentworth Local Environmental Plan 1993 (Amendment No 5)

Wentworth Local Environmental Plan 1993 (Amendment No 10)—Sheet 2 of 2

Wentworth Local Environmental Plan 1993 (Amendment No 13), Sheet No 1

Wentworth Local Environmental Plan 1993 (Amendment No 15), Sheet No 1

Wentworth Local Environmental Plan 1993 (Amendment No 17)

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

unregistrable movable dwelling has the same meaning as in *Ordinance 71* made under the [Local Government Act 1919](#).

wetlands means a billabong or low lying land that retains water following high rivers and floods.

- (2) In this plan, a reference to clearing is a reference to ringbarking, cutting down, felling, poisoning, removing or otherwise killing or destroying a tree.
- (3) In this plan:
 - (a) a reference to a map is a reference to a map deposited in the office of the Council, and
 - (b) a reference to a building or place used for a purpose includes a reference to a building or place intended to be used for the purpose.

6 Adoption of model provisions

- (1) The *Environmental Planning and Assessment Model Provisions 1980*, except for:
 - (a) the definitions of **arterial road**, **map** and **recreation facility** in clause 4 (1), and
 - (b) clauses 29 and 32,are adopted for the purposes of this plan.
- (2) The definition of **commercial premises** in clause 4 (1) of the *Environmental Planning and Assessment Model Provisions 1980* is adopted as if there were inserted after the word “clause” wherever occurring the words “or clause 5 of the *Wentworth Local Environmental Plan 1993*”.

7 Consent authority

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

Part 2 Zones

8 Zones indicated on the map

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

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

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

Zone No 1 (d) (Future Urban Zone)—edged heavy black and lettered “1 (d)”.

Zone No 2 (v) (Village or Urban Zone)—edged heavy black and lettered “2 (v)”.

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

Zone No 4 (b) (Light Industrial Zone)—edged heavy black and lettered “4 (b)”.

Zone No 6 (a) (Open Space Zone)—edged heavy black and lettered “6 (a)”.

9 Zone objectives and development control table

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

(b) development may be carried out only with development consent, and

(c) development is prohibited,

are specified under the headings “Without development consent”, “Only with development consent” and “Prohibited”, respectively, appearing in the matter relating to the zone.

- (3) Except as otherwise provided by this plan, the Council must not 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 Rural Zone)

1 Objectives of zone

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

(a) protecting, enhancing and conserving:

- (i) agricultural land in a manner which sustains its efficient and effective agricultural production potential,
- (ii) soil stability by controlling and locating development in accordance with soil capability,
- (iii) forests of existing and potential commercial value for timber production,
- (iv) valuable deposits of minerals, coal, petroleum and extractive materials by controlling the location of development for other purposes in order to ensure the efficient extraction of those deposits,
- (v) trees and other vegetation on environmentally sensitive land where the conservation of the vegetation is significant to scenic amenity or natural wildlife habitat or is likely to control land degradation,
- (vi) water resources for use in the public interest, and
- (vii) localities of significance for nature conservation, including areas with rare plants, wetlands and significant wildlife habitat,

(b) preventing the unjustified development of prime crop and pasture land

for purposes other than agriculture,

(c) facilitating farm adjustments, and

(d) minimizing the cost to the community of:

(i) the fragmented and isolated development of rural land, and

(ii) providing, extending and maintaining public amenities and services.

2 Without development consent

Agriculture (other than the ancillary dwellings, animal boarding or training establishments and intensive livestock keeping establishments); forestry (other than ancillary dwellings and pine plantations).

3 Only with development consent

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

4 Prohibited

Boarding houses; commercial premises; industries (other than extractive industries, home industries and rural industries); motor showrooms; residential flat buildings; shops (other than general stores not exceeding 150 square metres in gross floor area); unregistrable moveable dwellings.

Zone No 1 (c) (Rural Small Holdings Zone)

1 Objectives of zone

The objectives of this zone are:

(a) to promote the development of land identified as suitable for rural residential purposes:

(i) in accordance with the need for that development,

(ii) in a manner which does not interfere with the efficient and effective agricultural use of adjacent land or the extraction of valuable deposits of minerals or lead to land degradation,

(iii) in locations which do not pose a threat to life or property by way of flood liability, pollution or the cumulative effects of flood behaviour, and

(iv) in locations in which flood free access can be maintained,

- (b) to provide a range of mixture of allotment sizes:
 - (i) to provide land for rural residential development, and
 - (ii) to ensure that the density of development and ancillary uses carried out is compatible with land capability (including soil resource and stability), natural constraints and hazards of the land,
- (c) to conserve trees and other natural vegetation where the conservation of the vegetation is significant to scenic amenity or wildlife habitat or is likely to control land degradation, and
- (d) to enable a range of rural industrial, home industrial and business purposes to be carried out in association with the rural residential use of land where those industrial or business purposes and any ancillary uses are compatible with the environmental capability of the land and the amenity of the area and do not cause nuisance or hazard to adjoining land holders.

2 Without development consent

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

3 Only with development consent

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

4 Prohibited

Boarding houses; caravan parks; commercial premises; extractive industries; hotels; intensive livestock keeping establishments; institutions; junk yards; liquid fuel depots; mining; motels; motor showrooms; offensive or hazardous industries; restaurants; residential flat buildings; saw mills; shops (other than general stores not exceeding 150 square metres in gross floor area); stock and sale yards; unregistrable movable dwellings; warehouses.

Zone No 1 (d) (Future Urban Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to identify land that may be suitably utilized for future urban growth,
- (b) to ensure that land identified for future urban growth is not fragmented

or developed for non-urban purposes, other than agriculture, and

- (c) to indicate the direction of future village or rural living expansion to assist in the planning of service infrastructure.

2 Without development consent

Agriculture (other than ancillary dwellings, animal boarding or training establishments and intensive livestock keeping establishments); forestry.

3 Only with development consent

Animal boarding or training establishments; dwelling-houses and buildings ancillary to agriculture or forestry; home industries; open space; retail plant nurseries; rural industries compatible with urban development; utility installations (other than gas holders and generating works).

4 Prohibited

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

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

1 Objectives of zone

The objectives of this zone are:

- (a) to promote development in existing towns and villages in a manner which is compatible with their urban function, and
- (b) to provide suitable land for the expansion of urban areas.

2 Without development consent

Nil.

3 Only with development consent

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

4 Prohibited

Extractive industries; forestry; intensive livestock keeping establishments; junkyards within 300 metres of an arterial road; liquid fuel depots; mines; offensive and hazardous industries; sawmills; stock and sale yards.

Zone No 4 (a) (General Industrial Zone)

1 Objectives of zone

The objective of this zone is to provide an adequate area of land suitable for industrial and ancillary purposes separate from residential or business areas.

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose included in item 4.

4 Prohibited

Animal boarding or training establishments; boarding houses; commercial premises (other than agricultural showrooms); dwelling-houses; (other than those used in conjunction with industries); forestry; hotels; institutions; intensive livestock keeping establishments; mines; motels; offensive or hazardous industries; places of assembly; places of public worship; professional consulting rooms; public buildings; residential flat buildings; roadside stalls; shops (other than general stores not exceeding 150 square metres in gross floor area; stock and sale yards; tourist facilities; units for aged persons.

Zone No 4 (b) (Light Industrial Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to encourage light industrial development, and
- (b) to encourage the establishment of low density residential development intermingled with that development.

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose included in item 4.

4 Prohibited

Boarding houses; educational establishments; extractive industries;

hospitals; institutions; intensive livestock keeping establishments; motels; offensive or hazardous industries; places of assembly; residential flat buildings; shops (other than general stores not exceeding 150 square metres in gross floor area); tourist facilities.

Zone No 6 (a) (Open Space Zone)

1 Objectives of zone

The objectives of the zone are:

- (a) to ensure there is adequate open space for residents and tourists, and
- (b) to provide opportunities to enhance the total environment quality of the area.

2 Without development consent

Works for the purposes of landscaping, gardening, bushfire hazard reduction, weed control, prevention of land degradation and reduction of feral animal harbours.

3 Only with development consent

Camping grounds; dwelling-houses ancillary to permitted uses; educational establishments; parking spaces (associated with a permitted use); recreation establishments; recreation facilities; refreshment rooms; tourist facilities; utility installations (other than gas holders or generating works).

4 Prohibited

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

Part 3 Special provisions

10 Subdivision generally

- (1) This clause applies to all land to which this plan applies, other than land under the management and control of the Western Lands Commissioner.
- (2) A person must not subdivide land to which this clause applies except with the consent of the Council.

11 Subdivision applications

- (1) The Council must not consent to the subdivision of land within Zone No 1 (a), 1 (c) or 1 (d) unless it has obtained all relevant information in relation to, and made an

assessment of:

- (a) the primary purpose for which each allotment to be created by the subdivision is intended to be used,
- (b) whether any allotment to be created by the subdivision is intended to be used primarily for the purpose of agriculture, and
- (c) whether a dwelling is intended to be erected on any allotment to be created by the subdivision and the approximate location of any such dwelling.

12 General considerations for development within rural zones

- (1) The Council must not consent to an application to carry out development on land within Zone No 1 (a), 1 (c) or 1 (d) unless it has taken into consideration, if relevant, the effect of the carrying out of that development on:
 - (a) the present use of the land, the potential use of the land for the purposes of agriculture and the potential of any land which is prime crop and pasture land for sustained agricultural production,
 - (b) vegetation, timber production, land capability (including soil resources and soil stability) and water resources (including the quality and stability of water courses and ground water storage, salinity and riparian rights),
 - (c) the future recovery from known or prospective areas of valuable deposits of minerals, coal, petroleum, sand, gravel or other extractive materials,
 - (d) the protection of areas of significance for nature conservation or of high scenic or recreational value and places and buildings of archaeological or heritage significance, including Aboriginal relics and places,
 - (e) the cost of providing, extending and maintaining public amenities and services to the development,
 - (f) future expansion of settlements in the locality, and
 - (g) the effect of the development on the behaviour of floodwater, including the cumulative effects of that development and the pollution threat to any river from the development.
- (2) As well as the matters referred to in subclause (1), the Council shall take into consideration the relationship of the development to development on adjoining land and on other land in the locality.

13 Subdivision of land within Zone No 1 (a), 1 (c) or 1 (d)

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

- (2) Subject to this clause, the Council may consent to the subdivision of land to which this clause applies into allotments of any size, but only if the Council is satisfied that the allotments will be used for a purpose permitted (whether with or without the Council's consent) within the zone concerned.
- (3) The Council must not consent to the subdivision of land within Zone No 1 (a) if there is a dwelling-house erected in the land unless the proposed lot on which the dwelling-house will stand after the subdivision:
 - (a) will have an area of at least 10,000 hectares, if the lot consists of pastoral land, or
 - (b) will have an area of at least 10 hectares, if the lot consists of horticultural land.
- (4) The Council must not consent to the subdivision of land within Zone No 1 (a) if the proposed subdivision would create an allotment of land which the Council is satisfied will be used for the purpose of a dwelling.
- (5) The Council must not consent to the subdivision of land within Zone No 1 (c) unless the lots created by the subdivision will each have an area of at least 0.5 hectare.
- (6) The Council must not consent to the subdivision of land within Zone No 1 (d) if there is a dwelling erected on the land unless the proposed lot on which the existing dwelling will stand and each dwelling to be erected would stand after the subdivision:
 - (a) will have an area of at least 300 hectares, if the lot consists of pastoral land, or
 - (b) will have an area of at least 10 hectares, if the lot consists of horticultural land.
- (6A) Despite subclauses (3) and (6), the Council may consent to a subdivision of an existing holding within Zone No 1 (a) or 1 (d) to create a lot not exceeding half a hectare in area on which a dwelling is already erected if the Council is satisfied that the subdivision will facilitate farm adjustment.

In this subclause:

farm adjustment means the act of a change of ownership of rural land or a subdivision of rural land enabling a more productive, sustainable and profitable farming enterprise to be created under the new ownership.

- (7) On addition to any other provision of this clause, the Council must not consent to the subdivision of land within Zone No 1 (d) unless it is satisfied that the proposed subdivision will not have a detrimental effect on the future development of the land for urban purposes.
- (8) The Council must not consent to the subdivision of land to which this clause applies unless it is satisfied that adequate provision for on-site disposal of effluent will be provided in respect of each lot created by the subdivision on which a dwelling-house is or, in the opinion of the Council, will be situated.

14 Urban stormwater

(1) In this clause:

urban stormwater means water collected by urban stormwater drainage pipe and channel systems which concentrate urban stormwater runoff of a specific urban catchment area.

(2) When determining a development application, the Council shall give consideration to the disposal of urban stormwater:

- (a) through suitable detention areas which are designed to reduce rubbish, suspended solids and nutrients from the water before its further disposal, or
- (b) on to and in a land based disposal system.

(3) Before determining a development application that includes a proposal to dispose of urban stormwater, the Council shall refer the proposal to the Department of Water Resources for comment and shall take into consideration any comments notified to the Council by the Department within the time fixed by the Council in its referral.

15 Conflicting land uses

When determining a development application, the Council shall consider the creation of buffer areas between potentially conflicting land uses.

16 Dwellings within Zone No 1 (a) or 1 (d)

- (1) The Council must not consent to the erection of a dwelling on an allotment of vacant land within Zone No 1 (a) unless:
 - (a) the allotment consists of pastoral land with an area of at least 10,000 hectares per dwelling to be erected on it, or
 - (b) the allotment consists of horticultural land with an area of at least 10 hectares per dwelling to be erected on it.
- (2) The Council may consent to the erection, on an existing holding, of one dwelling for every 10,000 hectares of that holding if the holding consists of pastoral land (or for every 10 hectares of the holding if it consists of horticultural land).
- (3) Notwithstanding subclause (1), the Council may consent to the erection of a dwelling-house on land within Zone No 1 (a) or 1 (d) where the Council is satisfied the land comprises an allotment lawfully created for a rural dwelling before the appointed day.
- (4) In this clause, **vacant land** means land on which no dwelling is located.
- (5) Notwithstanding clause (1), the Council may consent to the erection of a dwelling on an allotment of vacant land of any size within Zone No 1 (a) or 1 (d) if that dwelling is

ancillary to other development on that allotment for which consent has been granted or which consent is not required.

17 Dwellings and subdivisions within Zone No 1 (a) or 1 (d)

Nothing in this plan prevents a person, with the consent of the Council, from carrying out development on the land described in Column 1 of Schedule 2 for the purposes specified in Column 2 of that Schedule opposite that land.

17A Development of certain land within Zone No 1 (d)

- (1) This clause applies to land, being Lot 124, DP 756946, Parish of Gol Gol, County of Wentworth, as shown edged heavy black and hatched on the map marked "*Wentworth Local Environmental Plan 1993 (Amendment No 3)*".
- (2) Development that may be carried out on land within Zone No 2 (v) (with or without the consent of the Council) may be carried out with the consent of the Council on land to which this clause applies.
- (3) The Council is not to grant such consent unless it is satisfied that the vehicular access to the land from its frontage to the Sturt Highway is or will be of a standard approved by the Roads and Traffic Authority.
- (4) This clause does not apply so as to allow any development that has not been substantially commenced within 2 years after the commencement of this clause.

17B Development of certain land within Zone No 1 (a)—Carramar Drive

- (1) This clause applies to land, being Lot 1, DP 846062, Carramar Drive, Parish of Gol Gol, County of Wentworth, as shown edged heavy black on the map marked "*Wentworth Local Environmental Plan 1993 (Amendment No 4)*".
- (2) Development that may be carried out on land within Zone No 2 (v) (with or without the consent of the Council) may be carried out with the consent of the Council on land to which this clause applies.
- (3) The Council is not to grant such consent unless it is satisfied that the proposed development and the density of that development is appropriate after giving consideration to the flood prone nature of the land.
- (4) This clause does not apply so as to allow any development that has not been substantially commenced within 2 years after the commencement of this clause.

17C Development of certain land within Zone No 1 (d)

- (1) This clause applies to land, being Lot 6, DP 822090, and Lots 103, 123, 65 and 198, DP 756946, Parish of Gol Gol, County of Wentworth, as shown hatched on the map marked "*Wentworth Local Environmental Plan 1993 (Amendment No 5)*".

- (2) Notwithstanding clause 16, development that may be carried out on land within Zone No 2 (v) (with or without the consent of the Council) may be carried out with the consent of the Council on land to which this clause applies.
- (3) This clause does not apply so as to allow any development that has not been substantially commenced within 2 years after the commencement of this clause.

17D Development of certain land within Zone No 1 (d)—Sturt Highway and Melaleuca Street

- (1) This clause applies to land, being Part Lot 2, DP 803056, fronting the Sturt Highway and Melaleuca Street, Parish of Gol Gol, County of Wentworth, as shown edged heavy black on the map marked "*Wentworth Local Environmental Plan 1993 (Amendment No 6)*".
- (2) Notwithstanding clause 16, development that may be carried out on land within Zone No 2 (v) (with or without the consent of the Council) may be carried out with the consent of the Council on land to which this clause applies.
- (3) The Council is not to grant such consent unless it is satisfied that vehicular access to, and egress from, the land from the Sturt Highway is or will be of a standard approved by the Roads and Traffic Authority.
- (4) This clause does not apply so as to allow any development that has not been substantially commenced within 2 years after the commencement of this clause.

17E Development of certain land within Zone No 1 (d)—Buronga and Gol Gol

- (1) This clause applies to land, being Lot 6, DP 822090, Lot 3, DP 878007, Lot 198, DP 756946, Lot 1, DP 874274, Lots 1 and 2, DP 1005470, Lot 1, DP 848480 and Lot 1 DP 846062, Parish of Gol Gol, County of Wentworth, as shown edged heavy black and diagonally hatched on the map marked "*Wentworth Local Environmental Plan 1993 (Amendment No 10)—Sheet 1 of 2*".
- (2) Notwithstanding clause 16, development that may be carried out on land within Zone No 2 (v) (with or without the consent of the Council) may be carried out with the consent of the Council on land to which this clause applies.
- (3) The Council is not to grant consent to such development on Lot 1, DP 846062 unless it is satisfied that the proposed development and the density of the proposed development are appropriate after giving consideration to the flood prone nature of the land.
- (4) This clause does not apply so as to allow any development that has not substantially commenced within 2 years after the commencement of this clause.

18 Dwellings within Zone No 1 (c)

A person may, with the consent of the Council, erect a dwelling-house on land within Zone No 1 (c) of the land has an area of not less than 0.5 hectares.

19 (Repealed)

20 Erection of additional dwellings within Zone No 1 (c) or 2 (v)

- (1) A person may, with the consent of the Council, erect one additional dwelling (or alter an existing dwelling to create 2 dwellings) on land within Zone No 1 (c) or 2 (v) where a dwelling could be erected on the land:
 - (a) in accordance with clause 18, if the land is within Zone No 1 (c) (provided that the density of dwellings on the land concerned will not exceed one dwelling per 0.5 hectares), or
 - (b) in accordance with clause 19 (other than clause 19 (1) (a)), if the land is within Zone No 2 (v).
- (2) The Council must not consent to the erection of an additional dwelling (or the alteration of an existing dwelling to create 2 dwellings) in pursuance of this clause unless:
 - (a) persons using the land will not require additional access to a public road, and
 - (b) separate ownership of the proposed dwelling could be achieved only by a subdivision of the land, and
 - (c) the Council is satisfied that the additional dwelling on the land will not interfere with the purpose for which the land, or adjacent land, is being used.
- (3) The Council must not consent to the subdivision of land on which an additional dwelling is erected in pursuance of this clause except in accordance with this plan.

21 Applications that must be advertised

The provision of Sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of development for the purposes specified in Schedule 3 in the same way as those provisions apply to and in respect of designated development except that the minimum period during which the proposed development must be advertised is 14 days.

22 Development along arterial roads

- (1) The Council must not consent to an application to carry out development on or with respect to land which has frontage to an arterial road, unless:
 - (a) access to that land is provided by a road other than the arterial road, wherever practicable, and

(b) in the opinion of the Council, the safety and efficiency of the arterial road will not be adversely affected by:

- (i) the design of the access to the proposed development,
- (ii) the emission of smoke or dust from the proposed development, or
- (iii) the nature, volume or frequency of vehicles using the arterial road to gain access to the proposed development.

(2) The Council must not consent to the carrying out of development on or with respect to land within Zone No 1 (a), 1 (c) or 1 (d) for any purpose listed in Schedule 4 if the development will result in direct access, by persons using the land, to:

- (a) an arterial road, or
- (b) a road connecting an arterial road, if access to that road will be within 90 metres (measured along the road alignment of the connecting road) of the nearest alignment of the arterial road.

(3) The Council must not consent to the carrying out of development on or with respect to land for the purposes of a hotel, motel, roadside stall or service station if the development will result in direct access, by persons using the land, to:

- (a) an arterial road, or
- (b) a road connecting an arterial road, if access to that road will be within 90 metres (measured along the road alignment of the connecting road) of the nearest alignment of the arterial road,

unless the Council has consulted with, and considered any comments received from, the Roads and Traffic Authority.

23 Environmentally sensitive land

A person must not carry out development on environmentally sensitive land for the purposes of:

- (a) animal boarding and training establishment,
- (b) industries other than rural industries,
- (c) intensive livestock keeping,
- (d) junk yards,
- (e) liquid fuel deposits,
- (f) offensive or hazardous industries,

- (g) saw mills, or
- (h) stock and sale yards.

24 Clearing on environmentally sensitive land

- (1) Except as otherwise provided by this clause, a person must not, without the consent of the Council, clear more than 5 percent of the area of an existing holding, where that 5 percent comprises environmentally sensitive land.
- (2) The Council must not consent to a development application required by subclause (1) unless, in the opinion of the Council, the clearing on the land will be carried out in a manner which, in respect of that land and adjacent land, minimises:
 - (a) the risk of soil erosion, salinity or other land degradation,
 - (b) the loss of scenic amenity,
 - (c) the loss of important vegetation systems and natural wildlife habitats.
- (3) Subclauses (1) and (2) do not apply to land under the management and control of the Western Lands Commissioner.
- (4) The consent of the Council is not required for:
 - (a) clearing that is reasonably necessary for carrying out development for the purposes of:
 - (i) a permanent fence,
 - (ii) an access trail up to 30 metres wide,
 - (iii) a cut line for stock movement up to 30 metres wide,
 - (iv) a fire break up to 30 metres wide, or up to 100 metres wide where trees of the mallee species predominate,
 - (v) a road up to 30 metres wide,
 - (vi) a telephone, power, gas or water line up to 30 metres wide, or
 - (vii) a drain to a dam, a bore drain or an irrigation channel up to 30 metres wide,
 - (b) lopping trees to provide stock feed in times of drought, provided that the method and extent of the lopping ensures the survival and continued health of the trees,
 - (c) clearing the regrowth of trees which are less than 3 metres in height on any land which:
 - (i) was lawfully cleared before the appointed day, or

- (ii) has been cleared in compliance with this clause,
 - (d) pruning trees for the purpose of their regeneration or ornamental shaping,
 - (e) removing trees which are dying or dead, or
 - (f) burning undergrowth for the purpose of range land management.
- (5) Nothing in this clause operates so as to permit:
- (a) clearing on any sandhill without the consent of the Council,
 - (b) clearing in a State forest, timber reserve or flora reserve within the meaning of the *Forestry Act 1916*,
 - (c) clearing in contravention of section 21C of the *Soil Conservation Act 1938*, or
 - (d) clearing in contravention of section 18DB of the *Western Lands Act 1901*.

25 Flood liable land

- (1) Notwithstanding any other provisions of this plan, a person must not erect a dwelling on flood liable land except with the consent of the Council.
- (2) The Council must not consent to a development application required by subclause (1) unless it is satisfied that the proposed development is not likely to:
- (a) impede the flow of flood water on that land or adjoining land,
 - (b) imperil the safety of the persons on that land or on adjoining land in the event of inundation of those lands,
 - (c) exacerbate the consequences of flood water on that land or adjoining land with regard to erosion, siltation and the destruction of vegetation,
 - (d) have an adverse impact on the water table or the degree of salinity on that land or adjoining land, or
 - (e) cause a hazard to residents of the land and people assisting them in times of flood.

26 Development along a river

- (1) Notwithstanding any other provisions of this plan, a person must not:
- (a) erect a building for any purpose on land within Zone No 1 (a), 1 (c) or 1 (d) within 400 metres of any bank of a river,
 - (b) carry out any clearing on land within 60 metres of any bank of a river,
 - (c) carry out development for any purpose on land within 20 metres of any bank of a

river, or

(d) on land comprising the bed or any bank of a river, carry out development for the purposes of;

(i) a canal, or

(ii) a marina (including pontoons, jetties, piers or other structures) designed to provide mooring or dry storage for one or more vessels used for any purpose,

except with the consent of the Council.

(2) The Council must not consent to an application to erect a building other than a dwelling on land comprising:

(a) the bed of a river, or

(b) land within Zone No 1 (a), 1 (c), 1 (d) or 2 (v) within 30 metres of the bank of a river,

unless, in the opinion of the Council, the building:

(c) is ancillary to the use of that land for the purpose of a recreation area, or

(d) is for the purpose of fisheries, irrigation works (including the pumping and treatment of water for private domestic consumption), marinas, utility installations or the servicing of vessels or sea planes.

(3) The Council must not consent to an application required by subclause (1) unless, in the opinion of the Council, the destruction of the trees or the development of or on the land, including subdivision of the land, will be carried out in a manner which, in respect of that land and the adjacent land, minimizes:

(a) the risk of soil erosion or other land degradation,

(b) the loss of scenic amenity,

(c) the loss of important vegetation systems and natural wildlife habitats, and

(d) any adverse impact on water quality.

27 Dwelling setback along river

(1) The aim of this clause is to ensure dwellings are setback far enough from a river:

(a) to protect water quality by reducing nutrient accessions to the river,

(b) to protect the river bank from erosion by retaining native vegetation,

(c) to screen dwellings from view from the river while allowing water views from dwellings,

- (d) to minimise disturbance to wildlife and aquatic habitat.
- (2) *State Environmental Planning Policy No 1—Development Standards* may not be used to vary setbacks under this clause.
- (3) The setback must be measured from the pool level of the river.
- (4) The minimum setback on land within Zone No 1 (c) is shown as a line on the map.
- (5) The minimum setback on land within Zone No 1 (a), 1 (d) or 2 (v) is 30 metres.
- (6) The Council may consent to the erection of a dwelling which is setback between 30 and 100 metres from pool level on land within Zone No 1 (a) or 1 (d) but only if the Council is satisfied the development furthers the aim of this clause. In satisfying itself, the Council may consult any relevant public authority and take into account its advice and may consider any relevant plan, study or work and take it into account.
- (7) Subclause (6) applies to the erection of a dwelling on land within Zone No 1 (a) even though it is setback more than 100 metres from the river, if (in the opinion of the Council) the use of the dwelling may contribute nutrient to the river.
- (8) The Council must not consent to the erection of a dwelling within 100 metres of a river unless it has considered a plan that shows how the site will be landscaped.

28 Land subject to bushfire hazard

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

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

29 Heritage items

- (1) A person must not, in respect of a building, work, relic, tree or place that is a heritage item:
 - (a) demolish or alter the building or work,
 - (b) damage or move the relic,
 - (c) excavate for the purpose of exposing the relic,
 - (d) damage or despoil the place or tree,

- (e) erect a building on or subdivide land on which the building, work or relic is situated or that comprises the place, or
- (f) damage any tree on land on which the building, work or relic is situated or on the land which comprises the place,

except with the consent of the Council.

- (2) The Council must 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 of its setting.

30 Protection of Aboriginal and archaeologically sensitive sites

- (1) The Council shall maintain a register for planning purposes of Aboriginal relic sites and places notified or declared under Part 6 of the *National Parks and Wildlife Act 1974*, and a list of locations and landscape elements where there is a high likelihood of Aboriginal relic sites occurring, as may be supplied to it from time to time by the National Parks and Wildlife Service.
- (2) The Council shall advise the National Parks and Wildlife Service of any application for consent to development which has the potential to disturb sites on lands registered or listed in accordance with subclause (1).
- (3) The Council shall allow 28 days from the dispatch of any advice under subclause (2), for receipt from the Service of any advice concerning Aboriginal relic sites or places, before granting consent to the development application.

31 Development in the vicinity of heritage items

The Council must 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.

32 Conservation incentives relating to heritage items

- (1) Nothing in this plan prevents the Council from granting consent to:
 - (a) the use, for any purpose, of a building that is a heritage item or the land on which the building is erected, or
 - (b) the use, for any purpose, of a building within a heritage conservation area or of the land on which the building is erected,if it is satisfied that:
 - (c) the proposed use would have little or no adverse effect on the amenity of the area, and

(d) the conservation of the building depends on the Council's granting consent.

33 Development of a place of potential historical archaeological significance

Where the consent authority receives an application to carry out development on land which comprises a potential historical archaeological site, the consent authority must not grant consent to the application unless:

- (a) it has received from the applicant and considered a conservation plan which includes an assessment of how the proposed development would affect the conservation of the site, and
- (b) in the case of development involving the disturbance or excavation of the land, any excavation permit required under the *Heritage Act 1977* has been obtained.

34 Heritage advertisements and notifications

(1) Except as provided by this clause, the provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of:

- (a) the demolition of a heritage item, and
- (b) the demolition of a building, work, relic or place within a heritage conservation area,

in the same way as those provisions apply to and in respect of designated development.

(2) The consent authority must not grant consent to an application to demolish a heritage item unless:

- (a) the consent authority has notified the Heritage Council of its intention to grant consent, and
- (b) the Heritage Council has no objection to the granting of consent.

(3) The Heritage Council is to be taken as having no objection unless it notifies the consent authority of its objection not later than 28 days after receiving notice of the consent authority's intention to grant consent.

(4) This clause does not apply to the partial demolition of a heritage item or a building or work within a heritage conservation area if, in the opinion of the Council, the partial demolition will be of a minor nature and will not adversely affect the heritage significance of the heritage item, building or work in relation to the environmental heritage of the land to which this plan applies.

35 Access

A person, other than the Council, must not construct a road which has access to a public

road or a Crown road except with the consent of the Council.

36 Wetlands

Any work which involves the filling, draining or levelling of a wetland requires Council consent.

Schedule 1 Heritage items

(Clause 5)

1	Old Wentworth Gaol	Portion 90, Beverley St, Wentworth
2	St Ignatius School	Lot 6, Section 1 (No 30), Cadell Street, Wentworth
3	Customs Officer's Residence	Lot 6, Section 23 (No 4), Adelaide St, Wentworth
4	Wentworth Courthouse	Pt Lot 11, Section 25 (Nos 68-72), Darling St, Wentworth
5	St John the Evangelist Anglican Church	Lot 2, Section 29 (No 89), Darling St, Wentworth
6	Rectory	Lot 1, Section 29 (No 81), Darling St, Wentworth
7	Lockmaster's Residence	Pt Portion 46, Cadell St, Wentworth
8	Wentworth Post Office and Residence	Lot 10, Section 25 (Nos 62-66), Darling St, Wentworth
9	Junction of Murray and Darling Rivers	Lots 1 to 8, Section 4A, Lots 1 to 10, Section 4, Lots 1 to 5, Section 3, Cadell Street, Wentworth
10	Rendlesham House	Pt Lot 7, Section 21 (Nos 22-24), Sandwych St, Wentworth
11	"Yampa"	Lot 4, DP 533914 (No 28), Sandwych St, Wentworth
12	"Crangs"	Lot 4, Section 4 (No 34), Cadell St, Wentworth
13	"The Nunnery"	Lot 7, Section 1 (No 28), Cadell St, Wentworth
14	Moorna Station Homestead	Renmark Road, Wentworth
15	Lake Victoria Homestead and Former Store	Lake Victoria
16	Avoca Homestead and Outbuildings	Pomona Road
17	Para Homestead and Woolshed	Lower Darling Road
18	Moorara Homestead	Menindee Road, Pooncarie
19	Nulla Woolshed	Renmark Road, Lake Victoria
20	Curlwaa Store	Lot 2, DP 637500, Delta Road, Curlwaa
21	Pooncarie Cemetery	Menindee Road, Pooncarie
22	Pooncarie Police Station	Lots 6-7, Section 8A, Tarcoola Street, Pooncarie

23	Wentworth Cemetery	Portions 1 to 7, Wilmount Street, Wentworth
24	Border Obelisk	Lot 154, DP 44279, Parish Cal Lal, County Tara
25	Wentworth Water Tower	Portion 1516, Darling River, Wentworth
26	Gol Gol Cemetery	Lot 6, Section 37 and Portion 225, Woods Street, Gol Gol
27	Windamingle Homestead	Silver City Highway, Anabranche
28	State Bank	Lot 1, Section 10, Tapio Avenue, Dareton
29	Telegraph Hotel	Lots 5-6, Section 9, Tarcoola St, Pooncarie

Schedule 2 Additional permitted development in Zone No 1 (a) or 1 (d)

(Clause 17)

Column 1	Column 2
Lot 990, DP 756961 and Lot 1119, DP 39565, Lot 1180, DP 820175, Silver City Highway, Coomealla	Dwellings and associated community facilities.
Lots 1 and 3-6, DP 589381 and Lot 2, DP 432081, Pomona Road, Pomona	Dwelling per existing lot.
Lot 4, DP 807824, Delta Road, Curlwaa	Dwelling.
Lot 18, DP 729491, Delta Road, Curlwaa	Dwelling.
Lots 3, 4, 5 and 6, DP 729492, Delta Road, Curlwaa	Dwelling per existing lot.
Part Lot 8, DP 807828, Manly Road, Curlwaa	Subdivision (min size 1000 square metres) and dwellings.
Lot 3, DP 734521, Lots 11, 12, 13 and 14, DP 729494 and Pt Lot 8, DP 729494, Silver City Highway, Curlwaa	Dwelling per existing lot.
Lots 15 to 22, DP 729494, Silver City Highway, Curlwaa	Dwelling per existing lot.
Lots 23 to 28, DP 729494 and Lot 2, DP 811025, Silver City Highway, Curlwaa	Dwelling per existing lot.
Lot 5, DP 807831, Silver City Highway, Curlwaa	Subdivision (min size 2000 square metres) and dwellings.
Lots 18 to 21, DP 804043, Church Road, Curlwaa and Lots 6, 19, and 17, DP 804040, and Lot 68, Sect 3, DP 9924, Delta Road, Curlwaa	Dwelling per existing lot.
Lot 15, DP 804040, Delta Road, Curlwaa	Dwelling.
Lot 1, DP 545851, N.I.L. 51, DP 9924 and Lots 1 & 2, DP 531873, Poplar Road, Curlwaa	Dwelling per existing lot.
Lot 3, DP 804041, Creek Road, Curlwaa	Dwelling.

Portion 159, Parish Mourquong, County Wentworth	Dwelling per existing lot.
Lot 1043, DP 39753, Silver City Highway, Mourquong	Subdivision (min size 6000 square metres) and dwellings.
Part Portion 5, Ryans Road, Curlwaa	Dwelling.
Lots 1 and 2, DP 819579, Old Renmark Road, Wentworth	Subdivision (creating lots with an area of not less than 5,000 square metres each) and dwellings.

Schedule 3 Development which must be advertised

(Clause 21)

- 1 Boarding houses; hotels; motels; residential flat buildings.
- 2 Industries (other than rural industries) in Zone No 1 (a), 1 (c), 1 (d) or 2 (v).
- 3 Animal boarding and training establishments; intensive livestock keeping establishments; junk yards; liquid fuel depots; saw mills; stock and sales yards.

Schedule 4 Development restricted along arterial roads

(Clause 22)

Bulk Stores
Caravan Parks
Car Repair Stations
Clubs
Commercial Premises
Educational Establishments
Hospitals
Industries (other than home or rural industries)
Institutions
Junk Yards
Liquid Fuel Depots
Mines
Places of Public Assembly
Places of Public Worship
Recreation Establishments
Recreation Facilities
Refreshment Rooms
Retail Plant Nurseries
Sawmills
Stock and Sale Yards
Transport Terminals
Warehouses