

# Forbes Local Environmental Plan 1986

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New South Wales

## Status Information

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### Provisions in force

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

### Authorisation

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

File last modified 9 May 2008

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New South Wales

## Contents

<b>Part 1 Preliminary</b> .....	4
1 Name of plan .....	4
2 Aims, objectives etc.....	4
3 Land to which this plan applies .....	5
4 Relationship to other environmental planning instruments .....	5
5 Interpretation .....	5
6 Adoption of Model Provisions .....	8
7 Consent authority .....	8
<b>Part 2 General restrictions on development of land</b> .....	8
8 Zones indicated on the map .....	8
9 Zone objectives and development control table.....	9
<b>Part 3 Special provisions</b> .....	17
9A What is exempt and complying development? .....	17
10 Flood liable land .....	18
11 Subdivision generally .....	18
12 Subdivision within Zone No 1 (a) .....	18
13 Dwelling-houses within Zone No 1 (a) .....	19
13A Dwelling entitlements on existing concessional lots .....	20
14 Development on main and arterial roads .....	20
15 Dual occupancy .....	21
16 Advertising of certain development applications.....	23
17 Residential housing .....	23

18 Community use of school facilities and sites .....	23
19 Rural Residential Zone No 1 (c) .....	24
20 Advertising structures on rural land .....	25
21 Recreation areas.....	25
22 Development for certain additional purposes.....	26
23 Contaminated land .....	26
<b>Schedule 1 Professionally qualified practitioners .....</b>	<b>26</b>
<b>Schedule 2 Shops allowed in residential zone.....</b>	<b>27</b>
<b>Schedule 3 Parcels within Zone No 7 .....</b>	<b>27</b>
<b>Schedule 4 Main or arterial roads .....</b>	<b>28</b>
<b>Schedule 5 Development for certain additional purposes.....</b>	<b>28</b>
<b>Schedule 6 Contaminated sites .....</b>	<b>28</b>
<b>Schedule 7 Flood liable rural residential land .....</b>	<b>29</b>

# Forbes Local Environmental Plan 1986



New South Wales

## Part 1 Preliminary

### 1 Name of plan

This plan may be cited as *Forbes Local Environmental Plan 1986*.

### 2 Aims, objectives etc

(1) The general aims of this plan are:

- (a) to repeal the existing local planning controls which apply to the land shown on the map and to replace those controls with a single local environmental plan,
- (b) to simplify the general restrictions on development by keeping to a minimum the number of zones into which the land is divided,
- (c) to give the council the greatest possible flexibility and the maximum responsibility for environmental planning by creating only a broad framework of controls and leaving the more detailed provisions relating to matters of significance only for local environmental planning to be contained in development control plans made by the Council, and
- (d) to maintain the opportunity for public involvement and participation in environmental planning and assessment by encouraging the use of development control plans to supplement the broad controls in this plan.

(2) The particular aims of this plan are:

- (a) to divide land into zones referred to in clause 8 and to achieve in respect of land within each of those zones the objectives specified in the Table to clause 9,
- (b) to encourage the Council to make development control plans regulating the carrying out of development permitted in Zone No 4 (a), for example:
  - (i) by restricting the carrying out of that development to a specified area within the zone, or
  - (ii) by fixing standards or specifying requirements in respect of any aspect of that

development,

- (c) to ensure that development is carried out in such a way as to allow the economic and efficient provision of public services and amenities,
- (d) to identify the Central Business District as the commercial and retail focus of the Shire and to allow for its expansion and redevelopment as and when it is required,
- (e) to promote Forbes as a tourist base and a centre for sporting and leisure facilities,
- (f) to further develop the road hierarchy to allow for the efficient and safe movement of traffic throughout the urban area,
- (g) to facilitate access to the floodplain of the Lachlan River by the upgrading of rural roads close to the urban area,
- (h) to reduce the incidence of damage on flood liable lands within the urban and fringe areas by restricting development in the flood plain and the floodways, which generally include the 1 in 20 year flood area—especially the Lake Forbes and Lawler/Renfree Streets floodways, and
- (i) to encourage the preparation of development control plans to control development in the Lake Forbes and Lawler/Renfree Street floodways and on flood liable land throughout the urban area.

### **3 Land to which this plan applies**

This plan applies to all land within the Shire of Forbes as shown on the maps.

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

This plan repeals:

- (a) *Interim Development Order No 1—Municipality of Forbes*,
- (b) *Interim Development Order No 1—Shire of Jemalong*, and
- (c) Forbes Local Environmental Plan Nos 1 and 2.

### **5 Interpretation**

(1) In this plan, except in so far as the context or subject-matter indicates or requires:

***animal boarding establishment*** means a place used for the boarding, care or minding and breeding of domestic pets and animals.

***appointed day*** means 19 January 1973.

***builder's yard*** means a building or place used for the storage of plant, equipment or other materials used in the building trade but does not include a bulk store, a junkyard

or a workshop.

**caravan park** means land used for the accommodation of caravans or other movable dwellings within the meaning of section 288A of the [Local Government Act 1919](#).

**cluster development** means the erection, on a single allotment of land of more than 1 dwelling-house, but does not include the erection of a dwelling-house on such an allotment where that dwelling-house is intended to replace entirely an existing dwelling-house on that allotment.

**community centre** means a building or place owned, leased or sub-leased by the Council and used to provide facilities comprising or relating to any one or more of the following:

- (a) public libraries,
- (b) public health services,
- (c) rest rooms,
- (d) meeting rooms,
- (e) indoor recreation,
- (f) child minding, or
- (g) any other like facility.

**Council** means the Council of the Shire of Forbes.

**demolition** includes the damaging, destroying pulling down or removal of a building, structure or work in whole or part.

**flood liable land** means land designated as a “flood plain” by the Water Resources Commission under section 166 (1) of the [Water Act 1912](#), and includes the land shown hatched on sheet 1 of the map.

**floodway** means the area where the main flood waters pass when floods occur.

**grain transport depot** means a building, place or structure used for the principal purpose of storage and bulk handling of grain or fertiliser for transport by road and includes facilities for the loading and unloading of vehicles used to transport those goods and for the parking, servicing and repair of those vehicles.

**motor showroom** means a building or place used for the display or sale of motor vehicles, agricultural machinery, caravans or boats, whether or not motor vehicle accessories, agricultural machinery accessories, caravan accessories or boat accessories are sold, or displayed, or both, therein or thereon.

**parcel**, in relation to land, means any area of adjoining or adjacent land held in the same ownership.

**professional and commercial chambers** means a room or number of rooms or chambers being part of a dwelling-house or other building which is used by one or more professionally qualified practitioners.

**professionally qualified practitioner** means a person engaged in a profession or occupation listed in Schedule 1 or a person engaged in a profession or occupation that is, in the opinion of the Council, similar to one so listed.

**recreation area** means:

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

**rural residential allotment** means a parcel of land within Zone No 1 (c).

**shire** means the Shire of Forbes.

**special home activity** means the combined development of a dwelling-house and a light industry.

**stock home** means a building or place where animals are bred, trained or accommodated and nurtured for gain or reward except in relation to the use of land for the purposes of agriculture.

**the map** means the map marked "*Shire of Forbes Local Environmental Plan*" as amended by 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.

*Forbes Local Environmental Plan 1986 (Amendment No 2)*

*Forbes Local Environmental Plan 1986 (Amendment No 4)*

*Forbes Local Environmental Plan 1986 (Amendment No 5)*

*Forbes Local Environmental Plan 1986 (Amendment No 6)*

*Forbes Local Environmental Plan 1986 (Amendment No 8)*

*Forbes Local Environmental Plan 1986 (Amendment No 9)*

*Forbes Local Environmental Plan 1986 (Amendment No 11)*

- (2) In this plan, except in so far as the context or subject-matter otherwise indicates or requires, a reference:
- (a) to a map, is a reference to a map deposited in the office of the Council, and
  - (b) to land within a zone specified in the Table to clause 9, is a reference to land shown on the map in the manner indicated in clause 8 as the means of identifying land of the zone is so specified, and
  - (c) to a building or place used for a purpose includes a reference to a building or place intended to be used for that purpose.
- (3) Notes in this plan do not form part of this plan.

## **6 Adoption of Model Provisions**

The *Environmental Planning and Assessment Model Provisions 1980*, except for the definitions of **map**, **motor showroom** and **professional consulting room** in clause 4 (1) and clauses 29 and 36 are adopted for the purposes of this plan.

## **7 Consent authority**

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

## **Part 2 General restrictions on development of land**

### **8 Zones indicated on the map**

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

Zone No 1 (a) (Rural Zone)—numbered and lettered “1 (a)”,

Zone No 1 (c) (Rural Residential Zone)—numbered and lettered “1 (c)”,

Zone No 2 (a) (Residential Zone)—numbered and lettered “2 (a)”,

Zone No 2 (b) (Special Home Activities Zone)—numbered and lettered “2 (b)”,

Zone No 2 (v) (Village Zone)—numbered and lettered “2 (v)”,

Zone No 3 (a) (Business Zone)—numbered and lettered “3 (a)”,



Zone No 4 (a) (Industrial Zone)—numbered and lettered “4 (a)”,

Zone No 5 (a) (Special Uses (Schools, etc) Zone)—numbered and lettered “5 (a)”,

Zone No 5 (b) (Special Uses (Railways) Zone)—numbered and lettered “5 (b)”,

Zone No 6 (a) (Public Open Space (Existing Recreation) Zone)—numbered and lettered “6 (a)”,

Zone No 6 (b) (Private Open Space (Private Recreation) Zone)—numbered and lettered “6 (b)”,

Zone No 7 (Environment Protection (Floodway) Zone)—numbered and lettered “7”.

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

Table

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

#### **1 Objectives of zone**

The objectives of this zone are:

- (a) to continue the existing rural zoning, and
- (b) to promote the maintenance of quality rural land for continued agricultural use.

## **2 Without development consent**

Agriculture (other than feed lots, poultry farms or pig keeping establishments); animal boarding establishments; forestry; landscaping and gardening.

## **3 Only with development consent**

Any purpose other than a purpose included in Item 2 or 4 of the matter relating to this zone.

## **4 Prohibited**

Boarding houses; motor showrooms; professional and commercial chambers; public buildings; residential flat buildings; shops (including shops listed in Schedule 2).

### **Zone No 1 (c) (Rural Residential Zone)**

#### **1 Objectives of zone**

The objectives of this zone are:

- (a) to enable development for the purposes of rural residential living to be carried out on land which is suitable for use for those purposes and is not of prime agricultural value, and
- (b) to enable other forms of development to be carried out on land within the zone if they are in keeping with the rural character of the locality and are compatible with the existing or likely future rural residential allotments.

#### **2 Without development consent**

Agriculture (other than feed lots, poultry farms or pig keeping establishments); landscaping and gardening; public open spaces; public recreation areas.

#### **3 Only with development consent**

Any purpose other than a purpose included in item 2 or 4 of the matter relating to this zone.

#### **4 Prohibited**

Abattoirs; boarding houses; builders' yards; bulk stores; bus depots; car

repair stations; caravan parks; commercial premises used in conjunction with industry and situated on the land on which such industry is conducted; feedlots; gas holders; generating works; hotels; industries; institutions; junk yards; light industries; liquid fuel depots; motor showrooms; professional and commercial chambers; public buildings; racecourses; recreation establishments; recreation facilities; refreshment rooms; residential flat buildings; sawmills; service stations; shops (including shops listed in schedule 2); special home activities; taverns; transport terminals; warehouses.

## **Zone No 2 (a) (Residential Zone)**

### **1 Objectives of zone**

The Objectives of this zone are:

- (a) to set aside land to be used for the purposes of housing and associated facilities,
- (b) to allow all forms of housing to take place anywhere within the zone, and
- (c) to allow development for purposes other than housing within the zone only if it does not detrimentally effect the character or amenity of the locality.

### **2 Without Development Consent**

Landscaping and gardening.

### **3 Only with development consent**

Any purpose other than a purpose included in item 2 or 4 of the matter relating to this zone.

### **4 Prohibited**

Abattoirs; animal boarding establishments; builders' yards; bulk stores; bus depots; car repair stations; caravan parks; commercial premises used in conjunction with industry and situated on the land on which the industry is conducted; feedlots; gas holders; generating works; grain transport depots; hotels; industries (other than home industries); institutions; junk yards; light industries; liquid fuel depots; motor showrooms; poultry farms or pig keeping establishments; public buildings; racecourses; road transport terminals; roadside stalls; rural industries; sawmills; shops (other than those listed in

Schedule 2); stock and sale yards; taverns; transport terminals; travelling stock reserves; warehouses.

## **Zone No 2 (b) (Special Home Activities Zone)**

### **1 Objectives of zone**

The objective is to allow the combined development of a dwelling-house and a light industry to be carried out on land suited to this type of development.

### **2 Without development consent**

Nil.

### **3 Only with development consent**

Any purpose other than a purpose included in item 4 of the matter relating to this zone.

### **4 Prohibited**

Abattoirs; agriculture; bulk stores; dwelling-houses (other than those used in conjunction with an industry); extractive industries; generating works; institutions; junk yards; liquid fuel depots; motor showrooms; places of assembly; public buildings; recreation establishments; recreation facilities; roadside stalls; sawmills; service stations; shops (including shops listed in schedule 2); stock and saleyards; taverns; warehouses.

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

### **1 Objectives of zone**

The objective of this zone is to allow development to continue to take place in the village of Ootha.

### **2 Without development consent**

Nil.

### **3 Only with development consent**

Any purpose other than a purpose included in item 4 of the matter relating to this zone.

### **4 Prohibited**

Institutions; junk yards (within 90 metres of a main road); mines; offensive or

hazardous industries.

### **Zone No 3 (a) (Business Zone)**

#### **1 Objectives of zone**

The objectives of this zone are:

- (a) to encourage the growth of the central business district as the commercial and retail focus of the Shire,
- (b) to encourage a wide range of retail, commercial and tourist facilities within the central business district, and
- (c) to accommodate the establishment of retail, commercial and professional services for local residents in convenient locations within the residential neighbourhoods where the scale and type of development is compatible with the amenity of the surrounding residential areas.

#### **2 Without development consent**

Nil.

#### **3 Only with development consent**

Any purpose other than a purpose included in item 4, of the matter relating to this zone.

#### **4 Prohibited**

Abattoirs; agriculture; animal boarding establishments; boarding houses; bowling greens; bulk stores; caravan parks; commercial premises (used in conjunction with industry and situated on the land on which such industry is conducted); feedlots; gas holders; generating works; grain transport depots; home industries; hospitals; industries; institutions; junk yards; light industries; liquid fuel depots; poultry farms or pig keeping establishments; racecourses; road transport terminals; roadside stalls; rural industries; rural workers' dwellings; sawmills; special home activities; stock and sale yards; transport terminals; travelling stock reserves.

### **Zone No 4 (a) Industrial Zone**

#### **1 Objectives of zone**

The objectives of this zone are:

- (a) to encourage the establishment of industries outside areas used or zoned for residential or business purposes by setting aside an area of land to be used for a broad range of industrial purposes,
- (b) to encourage detailed provision to be made, by means of a development control plan, for setting aside different areas within the zone for offensive or hazardous industries, general industries and light industries, and
- (c) to allow commercial or retail development only where it relates to the use of land within the zone for industrial purposes.

## **2 Without development consent**

Nil.

## **3 Only with development consent**

Any purpose other than a purpose included in item 4 of the matter relating to this zone.

## **4 Prohibited**

Boarding houses; bowling greens; caravan parks; dwelling-houses (other than those used in conjunction with an industry); hospitals; hotels; institutions; feedlots; poultry farms or pig keeping establishments; professional and commercial chambers; racecourses; residential flat buildings; restaurants; roadside stalls; shops (including shops listed in Schedule 2); special home activities; taverns; travelling stock reserves.

## **Zone No 5 (a) (Special Uses (Schools, etc), Zone)**

### **1 Objectives of zone**

The objective of this zone is to identify areas which are used, or may be used in the future, for particular public or community purposes.

### **2 Without development consent**

Nil.

### **3 Only with development consent**

Drainage; roads; the particular purpose indicated on the map, and any purpose ordinarily incidental or subsidiary to that purpose.

#### **4 Prohibited**

Any purpose other than a purpose included in item 3 of the matter relating to this zone.

### **Zone No 5 (b) (Special Uses (Railways) Zone)**

#### **1 Objectives of zone**

The objective is to allow for the continued use of railway land.

#### **2 Without development consent**

Drainage; railway purposes (including any purpose authorised under the [Government Railways Act 1912](#)); roads.

#### **3 Only with development consent**

Nil.

#### **4 Prohibited**

Any purpose other than a purpose included in item 2 of the matter relating to this zone.

### **Zone No 6 (a) (Public Open Space (Existing Recreation) Zone)**

#### **1 Objectives of zone**

The objectives of this zone are:

- (a) to identify land which, at the commencement of this plan, was owned by the Council and the Crown for use for open space or public recreational purposes,
- (b) to maximise the value of open space areas by identifying “fingers” of land protruding into new residential areas and the subsequent promotion of their multiple use for drainage, recreation, landscaping, walkways and cycleway purposes,
- (c) to promote the continuation of the open space network existing at the commencement of this plan and to identify future open space networks in new residential areas,
- (d) to provide a system of open space buffers adjacent to major roads within the Shire in order to separate and screen conflicting land uses and to

foster a sense of community for new residential neighbourhoods,

(e) to offer opportunities for recreational pursuits within residential neighbourhoods, and

(f) to ensure that sufficient land is available to satisfy the requirements of travelling stock.

## **2 Without development consent**

Gardening; landscaping; public open spaces.

## **3 Only with development consent**

Caravan parks; drainage; railways; recreation areas; roads; travelling stock reserves.

## **4 Prohibited**

Any purpose other than a purpose included in item 2 or 3 of the matter relating to this zone.

### **Zone No 6 (b) (Private Open Space (Private Recreation Zone))**

#### **1 Objectives of zone**

The objective is to identify land, whether in public or private ownership, which is used or may be used in the future for private recreation purposes.

#### **2 Without development consent**

Landscaping and gardening; recreation establishments; recreation facilities.

#### **3 Only with development consent**

Advertisements; advertising structures; bowling greens; caravan parks; caretakers' residences; drainage; hospitals; places of assembly; racecourses; roads; taverns.

#### **4 Prohibited**

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

### **Zone No 7 (Flood Way)**



## 1 Objectives of zone

The objectives of this zone are:

- (a) to reduce the incidence of damage to areas subject to flooding by restricting the carrying out of development on flood liable land and prohibiting the carrying out of development in floodways, and
- (b) to encourage detailed provisions to be made to achieve this by the use of development control plans.

## 2 Without development consent

Nil.

## 3 Only with development consent

Agriculture; drainage; landscaping and gardening; public open space; public recreation areas; roads; walkways and cycleways.

## 4 Prohibited

Any purpose other than a purpose included in item 2 or 3 of the matter relating to this zone.

## Part 3 Special provisions

### 9A What is exempt and complying development?

- (1) Development of minimal environmental impact listed as exempt development in *Development Control Plan No 7* as adopted by the Council on 16 December 1999 is **exempt development**, despite any other provisions of this plan.
- (2) Development listed as complying development in *Development Control Plan No 7* as adopted by the Council on 16 December 1999 is **complying development** if:
  - (a) it is local development of a kind that can be carried out with consent on the land on which it is proposed, and
  - (b) it is not an existing use, as defined in Section 106 of the Act.
- (3) Development is exempt or complying development only if it complies with the Development Standards and other requirements applied to the development by *Development Control Plan No 7* as adopted by the Council on 16 December 1999.
- (4) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in *Development Control Plan No 7* as adopted by the Council, as in force when the certificate is issued.

## **10 Flood liable land**

- (1) A person shall not erect a building or carry out a work on flood liable land without the prior consent of the Council.
- (2) The Council shall not consent to the erection of a building or the carrying out of a work on flood liable land unless:
  - (a) the development is in accordance with a development control plan prepared by the Council in consultation with the Water Resources Commission, and
  - (b) The Council is satisfied that the development will not unduly restrict the passage of water down the floodway.
- (3) A person may, with the consent of the Council, reconstruct an existing dwelling on a parcel of land described in Schedule 3 and a dwelling-house may be erected on any such parcel if the dwelling-house is used in conjunction with any activity permitted by item 3 of the matter relating to Zone No 7 in clause 9.

## **11 Subdivision generally**

A person shall not subdivide land to which this plan applies except with the consent of the Council.

## **12 Subdivision within Zone No 1 (a)**

- (1) Except as provided by subclauses (2) and (4), the Council may consent to the subdivision of land within Zone No 1 (a) only if each separate allotment to be created thereby:
  - (a) has an area of not less than 40 hectares, and
  - (b) has a ratio of depth to frontage that is satisfactory to the Council, having regard to the purpose for which it is to be used,and any frontage to a main road of the allotment is not less than 400 metres.
- (2) Subject to subclause (5), an allotment of land having an area of less than 40 hectares but not less than 2 hectares may be created in a subdivision of land within Zone No 1 (a) if the Council is satisfied that:
  - (a) the allotment is intended to be used for the purposes of agriculture,
  - (b) the allotment has a ratio of depth to frontage that is satisfactory, having regard to the purpose for which it is to be used, and
  - (c) any frontage of the allotment to a main road is not less than 200 metres.
- (3) (Repealed)

- (4) An allotment having an area of less than 40 hectares may be created in a subdivision of land within Zone No 1 (a) if:
  - (a) the Council is satisfied that the allotment is intended to be used for purposes permitted only with development consent (other than the purposes of a dwelling-house),
  - (b) the ratio of depth to frontage is satisfactory, having regard to the purpose for which it is to be used, and
  - (c) any frontage of the allotment to a main road is not less than 200 metres.
- (5) The total number of allotments that may be created by the subdivision of a parcel of land in accordance with consents given pursuant to subclause (2) shall not exceed:
  - (a) nil, where the parcel has an area of less than 10 hectares,
  - (b) one, where the parcel has an area of not less than 10 hectares but less than 20 hectares,
  - (c) two, where the parcel has an area of not less than 20 hectares but less than 30 hectares, or
  - (d) three, where the parcel has an area of not less than 30 hectares.
- (6) In considering any application for subdivision of land within Zone No 1 (a), the Council shall have regard to the requirements for setback of buildings from the alignment or centreline of a main road as set out in clause 14 (2).

**Note—**

Clause 9 of the [State Environmental Planning Policy \(Rural Lands\) 2008](#) enables subdivision of lots smaller than allowed by this plan for the purposes of primary production.

**13 Dwelling-houses within Zone No 1 (a)**

- (1) A dwelling-house shall not be erected on a parcel of land within Zone No 1 (a) unless the parcel:
  - (a) has an area of not less than 40 hectares,
  - (b) comprises an allotment created by a subdivision in accordance with clause 12 (2) and the use of the dwelling-house is ancillary and subsidiary to the use of the allotment for the purposes of agriculture,
  - (c) (Repealed)
  - (d) comprises an allotment lawfully created prior to the appointed day and the allotment could have been created in accordance with the provisions of clause 12 if those provisions were in force at the time such allotment was created, or

- (e) comprises an allotment in a subdivision to which the approval of the council has been granted pursuant to the provisions of IDO No 1—Shire of Jemalong, as in force at any time before 14 March 1985.
- (2) Not more than one dwelling-house shall be erected on a parcel of land referred to in subclause (1) (b), (d) or (e).
- (3) One dwelling-house may be erected on a parcel of land referred to in subclause 1 (a) for 40 hectares contained within the parcel, but any dwelling-house (hereinafter called a rural worker's dwelling) erected after the first dwelling-house has been erected may only be used to accommodate a person employed or engaged in the use of the parcel for the purposes of agriculture.
- (4) Nothing in subclause (2) prevents the erection of a dwelling-house on a parcel of land on which another dwelling-house is erected where the use of such first-mentioned dwelling-house shall not commence until the use of the second-mentioned dwelling-house has permanently ceased or such dwelling-house has been demolished.

### **13A Dwelling entitlements on existing concessional lots**

The amendment of this plan by the *State Environmental Planning Policy (Rural Lands) 2008* does not affect any entitlement arising under a provision of this plan (as in force before that amendment) to erect a dwelling-house on a lot, if:

- (a) the lot was created before that commencement, or
- (b) development consent to the creation of the lot was applied for, or granted, before that commencement.

### **14 Development on main and arterial roads**

- (1) The Council shall not grant consent to an application to carry out development on land which has frontage to an arterial road, unless, in the opinion of the Council:
  - (a) access to that land is provided by a road other than the arterial road, wherever practicable, and
  - (b) 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, and
    - (iii) the nature, volume or frequency of vehicles using the arterial road to gain access to the proposed development.
- (2) The Council shall not consent to the development of rural land within Zone No 1 (a) or 1 (c) for:

- (a) bulk stores,
- (b) caravan parks,
- (c) car repair stations,
- (d) commercial premises,
- (e) hotels,
- (f) industries (other than home or rural industries),
- (g) junk yards,
- (h) mines,
- (i) motels,
- (j) place of public assembly,
- (k) recreation facilities,
- (l) refreshment rooms,
- (m) retail plant nurseries,
- (n) roadside stalls,
- (o) saw mills,
- (p) service stations,
- (q) stock and sale yards,
- (r) transport terminals (other than bus stations), and
- (s) warehouses,

if the development of the land for that purpose will have direct access to an arterial road or to a road connecting an arterial road, and the access to that road is within 90 metres (measured along the road alignment of the connecting road) or the alignment of the arterial road.

## **15 Dual occupancy**

(1) In this clause:

**Dual occupancy building** means a building containing 2 dwellings only.

**Floor space ratio**, in relation to a dwelling-house, means the ratio of the gross floor area of the dwelling-house (exclusive of the area of any carport or garage) to the area

of the allotment on which the dwelling-house is erected.

- (2) A person may, with the consent of the council, alter or add to a dwelling-house so as to create a dual occupancy building if:
  - (a) the area of the allotment on which the dwelling-house is erected is not less than 400 square metres,
  - (b) the floor space ratio of the dwelling-house as altered or added to is not greater than:
    - (i) the floor space ratio of the dwelling-house before it was added to or altered, or
    - (ii) 0.5:1, whichever is the greater, and
  - (c) arrangements have been made for the provision of a water supply and for the disposal of sewage and stormwater drainage from the land to cater for the use of the dwelling-house for two dwellings.
- (3) The provisions of this plan (other than subclauses (4) and (5)) relating to residential flat buildings do not apply to a dual occupancy building created or erected, or proposed to be created or erected, in accordance with this clause.
- (4) Where, in accordance with this clause, a dual occupancy building is created or erected, or is proposed to be created or erected, on land in respect of which development for the purposes of a residential flat building is prohibited, the separate occupation of the several lots illustrated by a proposed strata plan relating to that building is prohibited.
- (5) For the purpose of enabling development to be carried out in accordance with this clause (as in force at the time the development is carried out) or in accordance with a consent granted under the Act, in relation to development carried out in accordance with this clause:
  - (a) section 314 (1) (c) of, and Schedule 7 to, the *Local Government Act 1919*,
  - (b) any proclamation made under section 309 (1) of that Act, and
  - (c) any agreement, covenant or instrument imposing restrictions as to the erection or use of buildings for certain purposes or as to the use of land for certain purposes, to the extent necessary to serve that purpose, shall not apply to the development.
- (6) Pursuant to section 28 of the Act, before the making of this clause:
  - (a) the Governor approved of subclause (5), and
  - (b) the Minister for Planning and Environment concurred in writing in the recommendation for the approval of the Governor of subclause (5).

## **16 Advertising of certain development applications**

- (1) This clause applies to development proposed to be carried out on land:
  - (a) within Zone No 7 or on flood liable land,
  - (b) within Zone No 2 (a), or
  - (c) within Zone No 6 (a) and owned by the council, other than development involving alterations or additions to any existing building which alterations or additions, in the opinion of the council, are of a minor nature and do not, to any significant extent, adversely affect the existing or likely future amenity of the neighbourhood.
- (2) Pursuant to section 30 (4) of the Act, the provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of development to which this clause applies for any purpose in the same way as those provisions apply to and in respect of designated development.

## **17 Residential housing**

- (1) In this clause, a reference to the area of an allotment does not, in the case of a battle-axe shaped allotment, include a reference to the area of the access corridor of the allotment.
- (2) A person shall not carry out development for the purposes of a dwelling-house on an allotment of land within Zone No 2 (a) unless:
  - (a) in the case of a battle-axe shaped allotment, the area of the allotment is not less than 650 square metres, or
  - (b) in the case of any other allotment—the area of the allotment is not less than 550 square metres and the allotment has a frontage of not less than 16.8 metres.
- (3) Notwithstanding subclause (2), a dwelling-house may be erected on an allotment of land within Zone No 2 (a) irrespective of the area of the allotment if the allotment was created by a subdivision effected before the appointed day.
- (4) Cluster development may be carried out on an allotment of land within Zone No 2 (a) only where the allotment has an area of not less than 740 square metres and a width at the front alignment of the frontmost building of not less than 20 metres.

## **18 Community use of school facilities and sites**

- (1) Where land to which this plan applies is used for the purposes of an educational establishment, the site and facilities of the establishment may, with the consent of the council, be used for the purposes 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 require 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 pursuant to an environmental planning instrument without consent.

**19 Rural Residential Zone No 1 (c)**

- (1) This clause applies to land within Zone No 1 (c).
- (2) Subject to subclause (3), the council shall not grant consent to an application to subdivide land to which this clause applies unless:
  - (a) the area of each allotment to be created by the subdivision is:
    - (i) not less than 2 hectares, for allotments with on-site disposal of wastes, or
    - (ii) not less than 4 000 square metres, for allotments to be served with a sewerage disposal system,
  - (b) the ratio of depth to frontage of each allotment to be created by the subdivision is satisfactory to the council having regard to the purpose for which the allotment is to be used, and
  - (c) there is no direct means of vehicular access from any allotment to a main or arterial road.
- (3) The council may grant consent to an application to subdivide land to which this clause applies (other than flood liable land) so as to create allotments with provision for on-site disposal of wastes the areas of which are less than the area specified in subclause (2) (a) (i), where the council has available to it a detailed analysis demonstrating the suitability of all lots to be created for on-site disposal of wastes, which analysis shall include consideration of:
  - (a) slope,
  - (b) ground cover,
  - (c) soil permeability,
  - (d) transpiration factors,
  - (e) proximity of proposed dwellings to flowlines,
  - (f) relative location of proposed dwellings to proposed septic systems and each other,
  - (g) landscaping,
  - (h) proximity of small lots to larger lots, or
  - (i) maintenance of any works for soil conservation purposes.



- (4) Notwithstanding subclause (2), the council shall not grant consent to an application to subdivide land to which this clause applies and which is flood liable land unless each separate allotment created thereby has an area of not less than 10 hectares.
- (4A) Subclause (4) shall not apply to land described in Schedule 7.
- (5) A person shall not carry out development for the purposes of a dwelling-house on an allotment of land within Zone No 1 (c) unless the allotment is an allotment created in accordance with this clause.
- (6) Notwithstanding subclause (5), a dwelling-house may be erected on an allotment of land within Zone No 1 (c) which is not flood liable land irrespective of the area of the allotment if the allotment effected was created by a subdivision effected before the appointed day.
- (7) Notwithstanding subclause (6), a dwelling-house may only be erected on flood liable land within Zone No 1 (c) which comprises the whole of an existing holding or an existing holding affected only by a subdivision effected in accordance with this clause.
- (8) In this clause, **existing holding** means:
- (a) except as provided by paragraph (b), a lot, portion or parcel of land as it was on 1 November 1991, or
  - (b) where, on 1 November 1991, a person owned 2 or more adjoining or adjacent lots, portions or parcels of land, the aggregation of those lots, portions or parcels as they were on that date.

## **20 Advertising structures on rural land**

- (1) An advertising structure shall not be erected on land within Zone No 1 (a) or 1 (c).
- (2) Notwithstanding the provisions of subclause (1), the council may consent to the erection on land within Zone No 1 (a) or 1 (c) or an advertising structure displaying only notices related to the purposes for which the land is used.
- (3) Nothing in this clause shall operate to prohibit the erection by the council of structures on land within Zone No 1 (a) or 1 (c) for the purpose of directing the travelling public to tourist areas or the display or such structures of private advertisements of tourist facilities.

## **21 Recreation areas**

- (1) The council shall not consent to the carrying out of development on land within Zone No 6 (a), being land owned or controlled by the council, unless consideration has been given to:
- (a) the need for the proposed development on that land,

(b) the impact of the proposed development on the existing or likely future use of the land, and

(c) the need to retain the land for its existing or likely future use.

## **22 Development for certain additional purposes**

- (1) Nothing in this plan prevents a person, with the consent of the Council, from carrying out development on land referred to in Schedule 5 for a purpose specified in relation to that land in that Schedule, subject to such conditions, if any, as are so specified.
- (2) Subclause (1) does not affect the application, to or in respect of development to which that subclause applies, of such of the provisions of this plan as are not inconsistent with that subclause or with a consent granted by the Council in respect of the development.

## **23 Contaminated land**

- (1) The Council must not consent to the carrying out of development on land described in Schedule 6 (Contaminated Sites) unless the extent of the contamination of the land has been identified and a plan for remedial works to be undertaken has been prepared to the satisfaction of the Council
- (2) The Council may resolve to prepare a draft local environmental plan that will include additional sites which, in the opinion of the Council, are contaminated sites in Schedule 6.
- (3) The Council shall forthwith upon resolving to prepare a plan adding a contaminated site to Schedule 6:
  - (a) cause notice of the resolution to be published in a newspaper circulating throughout the Shire of Forbes, and
  - (b) give notice in writing to each person who appears to be an owner or occupier of relevant land.

## **Schedule 1 Professionally qualified practitioners**

(Clause 5)

Accountant  
Acupuncturist  
Archaeologist  
Architect  
Auctioneer  
Biologist  
Chiropractor  
Clinical psychologist  
Dentist  
Economist

Engineer  
Geologist  
Homeopath  
Hypnotherapist  
Insurance broker  
Legal practitioner (solicitor or barrister)  
Medical practitioner (general practitioner or specialist)  
Naturopath  
Optician  
Optometrist  
Orthodontist  
Osteopath  
Physiotherapist  
Podiatrist (chiropodist)  
Quantity surveyor  
Speech therapist  
Surveyor  
Town planner  
Valuer  
Veterinary practitioner

## **Schedule 2 Shops allowed in residential zone**

(Clause 9)

Art galleries  
Butchers' shops  
Chemists' shops  
Confectionery shops and milk bars  
Greengrocers' shops  
Hairdressing salons  
Newsagencies  
Retail plant nurseries  
Smallgoods and sandwich shops  
Tobacconists' shops

## **Schedule 3 Parcels within Zone No 7**

(Clause 10)

<b>Valuation No</b>	<b>Description of Land</b>	<b>Area ha</b>
3889	Portion 1528	1.631 0
3890	Portion 183, 351, 352 and 1210	5.084 0
3891	Lot 1, DP 570654	1.978 0
3893	Lot 2, DP 570654	.607 0
3894	Portion 225, 1186	3.283 0

3895	Portion 1615	1.077 0
3896	Lot 2 (proposed subdivision)	3.943 0
3896	Lot 1 (proposed subdivision)	3.110 0
4235	Portion 828, 829, 1198/1200, 1607	5.590 0
4238	Portion 319	3.761 0
4239	Portion 821	.809 4
4240	Portion 1633	.663 9
4241	Portion 1632	4.350 0
—	Portion 1284	3.354 0

## Schedule 4 Main or arterial roads

(Clause 14)

Forbes—Bogan Gate Road (MR 350)  
 Forbes—Condoblin Road (MR 377W)  
 Forbes—Cowra Road (TR 56)  
 Forbes—Eugowra Road (MR 377E)  
 Forbes—Grenfell Road (MR 236)  
 Newell Highway (SH 17)  
 Parkes—Condoblin Road (TR 61)  
 Gooloogong—Grenfell Road (MR 237)  
 Parkes—Eugowra Road (MR 238)

## Schedule 5 Development for certain additional purposes

(Clause 22)

Lot 4, DP 800039, Union Street, Forbes, as shown edged heavy black on the map marked “*Forbes Local Environmental Plan 1986 (Amendment No 1)*”—two-way radio sales and service centre.

Portion 1481, Parish of Forbes, County of Ashburnham—two dwelling-houses.

Lots 2 and 3, DP 585133; Lot 1, DP 238714; Portions 823, 1390, 1391, 1392, 1397, 1507, 1508, 1565, 1591, 1592, 1616, 1627, 1643, 1655, 1672, closed roads and Crown Reserve, Parish of Forbes, County of Ashburnham, Newell Highway, known as the Lachlan Vintage Village—tourist facility.

## Schedule 6 Contaminated sites

(Clause 23)

Portion 76 and Part Portion 1894, Parish of Bocobidgle, County of Ashburnham, Bogan Gate Road—former night soil disposal site.

Lot 1, DP 573421, Newell Highway, Daroobalgie—tannery site.

Portion 1276, Parish of Forbes, County of Ashburnham—former night soil site.

Portions 1053 and 1054, Parish of Forbes, County of Ashburnham, Bogan Gate Road, Forbes—disposal site for anthrax infected animals.

Portions 1440 and 1650, and Part Portion 335, Parish of Forbes, County of Ashburnham, Prince Street, Forbes—former garbage depot site.

## **Schedule 7 Flood liable rural residential land**

(Clause 19)

Portion 340, Parish of Wongajong, County of Forbes.