

Conargo Local Environmental Plan 1987

[1987-177]



New South Wales

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

Authorisation

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Conargo Local Environmental Plan 1987



New South Wales

Contents

Part 1 Preliminary	4
1 Name of plan	4
2 Aims, objectives etc.....	4
3 Land to which plan applies	4
4 Interpretation	4
5 Model provisions	6
6 Consent authority	6
Part 2 General restrictions on development of land	6
7 Zones indicated on the map	6
8 Zone objectives and development control table.....	7
Part 3 Special provisions	10
9 Advertisement of certain applications	10
10 Subdivision generally	10
11 Rural subdivision—Zone No 1 (a).....	10
11A Subdivision for the purposes of dwellings in Zone No 1 (c)	12
12 Subdivision of village land—Zone No 2	13
13 Dwelling-houses—rural land	13
13A Dwelling entitlements on existing concessional lots	14
14 Consultation with the Director-General, Department of Agriculture	14
15 Boarding-houses and residential flat buildings—Zone No 2.....	14
16 Development of floodways or on flood liable land.....	14
17 Caravan parks	15

18 Rural activities near boundary.....	15
19 Development along main roads.....	15
20 Foreshore building line	16
21 Sandhill erosion prevention in Zone No 1 (a).....	16
22 Tourist accommodation	17
23 Community use of school facilities and sites	17
24 Dual occupancy	17
25 Land subject to bushfire hazards.....	18
26 Development for certain additional purposes.....	18
Schedule 1	18
Schedule 2	19
Schedule 3	19
Schedule 4 Development for certain additional purposes	20

Conargo Local Environmental Plan 1987



New South Wales

Part 1 Preliminary

1 Name of plan

This plan may be cited as *Conargo Local Environmental Plan 1987*.

2 Aims, objectives etc

The general aims and objectives of this plan are:

- (a) to introduce planning control in the Shire of Conargo,
- (b) to control and limit development within floodways and on flood liable land,
- (c) to protect trees and other vegetation on sandhill country,
- (d) to enable a foreshore building line to be set for land where there is a river, lagoon or lake,
- (e) to require, for some specific purposes, consultation with the Traffic Authority of New South Wales, and
- (f) to provide that certain, possibly contentious, developments are to be advertised, giving notice of the application, allowing the public to inspect and make submissions in respect of the application for the Council's consideration and decision.

3 Land to which plan applies

This plan applies to all land within the Shire of Conargo as shown edged heavy black on the map.

4 Interpretation

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

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

caravan park means any land in respect of which a license issued by the Council

under section 288A of the *Local Government Act 1919* is in force.

Council means the Council of the Shire of Conargo.

feedlot means any building or place within or upon which stock or animals (other than dogs or domestic pets) are held, confined or kept and fed either in whole or in part by a feeding method other than natural grazing, but does not include a stock home.

flood liable land means land which the Council has determined would be inundated as a result of a flood.

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

immediate family in relation to a person, means the person's mother, father, brother, sister, mother-in-law, father-in-law, step-father, step-mother, step-brother, step-sister, spouse, son, daughter, step-son, step-daughter, grandson, granddaughter, grandmother, grandfather.

piggery means a building or place where 20 or more pigs or piglets are kept for breeding or fattening, but does not include a slaughter-house.

poultry farm means a building, holding or place where:

- (a) in the case of land being not more than 2 000 square metres in area, more than 10 birds are kept,
- (b) in the case of land being more than 2 000 square metres in area, more than 50 birds are kept, including pigeons, caged birds, geese, turkeys and similar fowl.

recreational 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 physical, cultural or intellectual welfare of the community, or
- (d) an area used by a body of persons associated together for the purpose of the physical, cultural or intellectual welfare of the community to provide recreational facilities for those purposes,

but does not include racecourses or showgrounds.

sandhill vegetation clearing means any manner of destruction of trees, shrubs or plants on a dune consisting of sandmound or other sand on the land shown hatched on

the map, including the cutting, felling, chaining, rolling, ringbarking, poisoning or burning of trees, shrubs or plants, but does not include destruction of noxious weeds or plants or trees that are dead or dangerous.

stock home means a building or place where animals are bred, trained or accommodated and nurtured for gain or reward otherwise than as ancillary to the use of land for the purpose of agriculture.

the map means the series of maps marked “*Conargo Local Environmental Plan 1987*”, 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.

Conargo Local Environmental Plan 1987 (Amendment No 1)

Conargo Local Environmental Plan No 2

- (2) In this plan, except in so far as the context or subject-matter otherwise indicates or requires:
 - (a) a reference to a building or place used for a purpose includes a reference to a building or place intended to be used for the purpose, and
 - (b) a reference to a map is a reference to a map deposited in the office of the Council.
- (3) Notes in this plan do not form part of this plan.

5 Model provisions

The [Environmental Planning and Assessment Model Provisions 1980](#) (except for the definition of **map** in clause 4 (1) and clauses 5 (3), 7, 20, 29 and 34) are adopted for the purposes of this plan.

6 Consent authority

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

Part 2 General restrictions on development of land

7 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)—coloured light brown with heavy black edging and lettered “1 (a)”.

Zone No 1 (c) (Rural Small Holdings Zone)—coloured light brown with heavy black edging and lettered “1 (c)”.

Zone No 2 (Village)—uncoloured with heavy black edging and lettered “V”.

8 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.

Table

Zone No 1 (a) (Rural Zone)

1 Objectives of zone

The objectives are:

- (a) to protect the agricultural potential of rural land and to prevent the fragmentation of rural holdings,
- (b) to prevent inappropriate, premature or sporadic subdivision and to ensure consolidation of urban uses in Village zone areas thus enhancing the prospect of the economic provision of services,
- (c) to allow residential development on small holdings in a rural setting within a specific area which will also provide for part-time farming or farming activities as a leisure pursuit but subject to special controls and strict limits,
- (d) to prevent, on the fringe of the urban areas, the subdivision of land into small lots which would prejudice the proper layout and provision of additional urban areas to meet future growth,
- (e) to set allotment sizes and control development for certain rural and

other activities which potentially pose servicing and environmental problems, particularly in close proximity to any boundary,

- (f) to restrict ribbon and certain other development from occurring along main roads and prevent the establishment of traffic generating land uses along main roads and for a given distance down roads which lead from them,
- (g) to permit tourist accommodation provided it does not detract from the main purpose of use of the land for rural activities, and
- (h) to protect trees and other vegetation particularly on sandhill country.

2 Without development consent

Agriculture (other than feedlots, piggeries, pig keeping, poultry farming and sandhill vegetation clearing) and, in the case of dwellings ancillary to agriculture, subject to clause 13; dwelling-houses (subject to clause 13); forestry.

3 Only with development consent

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

4 Prohibited

Advertising structures; car repairs stations; clubs; commercial premises; hotels; motels; places of assembly; places of public worship; refreshment rooms; residential flat buildings; service stations; shops; showrooms; taverns; warehouses.

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

1 Objectives of zone

The objectives are to promote development of land identified as suitable for:

- (a) rural residential or hobby farm development, or
- (b) a range of industrial, storage or intensive livestock keeping purposes which are compatible with the environmental capabilities of the land and which are unlikely to adversely affect land or development in the vicinity.

2 Without development consent

Agriculture (other than feedlots, piggeries, pig keeping and poultry farming).

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; hotels; motels; motor showrooms; refreshment rooms; residential flat buildings; shops (other than general stores not exceeding 100 square metres in gross floor area).

Zone No 2 (Village Zone)

1 Objectives of zone

The objectives are:

- (a) to allocate areas which provide a range of residential accommodation and urban facilities for the rural community,
- (b) to establish village boundaries which provide adequate vacant land for future residential development,
- (c) to recognize the natural and physical features of each village, restricting development in unsuitable areas such as flood prone land,
- (d) to control village development for more efficient use of the existing and future utility services such as water supply and sewerage services, and make best use of developed roads or streets, and
- (e) to control and prevent inappropriate or premature subdivision and to enable consolidation of urban areas thus enhancing the prospect of the economic provision of services.

2 Without development consent

Agriculture (other than feedlots, piggeries, pig keeping, and poultry farming).

3 Only with development consent

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

4 Prohibited

Abattoirs; extractive industries; feedlots; forestry; generating works; liquid fuel depots; mines; offensive or hazardous industries; pig keeping; piggeries;

poultry farming; sawmilling; stables; stock and sale yards.

Part 3 Special provisions

9 Advertisement of certain applications

The provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of:

- (a) development for a purpose specified in Schedule 1, carried out on land within Zone No 2, being development which, in the opinion of the Council, adjoins or is adjacent to residential areas, or
- (b) development for a purpose referred to in clause 15,

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

10 Subdivision generally

A person shall not subdivide land to which this plan applies without the consent of the Council.

11 Rural subdivision—Zone No 1 (a)

- (1) This clause applies to land within Zone No 1 (a).
- (2) In this clause:

concessional lot means an allotment referred to in subclause (5) (a).

existing holding means:

- (a) except as provided by paragraph (b)—the area of a lot, portion or parcel of land as it was at the appointed day, or
 - (b) where, as at the appointed day, a person owned 2 or more adjoining or adjacent lots, portions or parcels of land, the aggregation of the areas of those lots, portions or parcels as they were at the appointed day.
- (3) The Council shall not grant consent to the subdivision of land to which this clause applies except as provided by this clause.
 - (4) The Council may grant consent in respect of an application to subdivide land to which this clause applies if each allotment of land to be created by the subdivision will have:
 - (a) an area of not less than 40 hectares, and
 - (b) a ratio of depth to frontage satisfactory to the Council, having regard to the purpose for which the allotment is or is intended to be used.

- (5) Subject to subclause (7), the Council may grant consent in respect of an application to subdivide land to which this clause applies for the following purpose:
- (a) to create an allotment having an area of less than 40 hectares, but not less than 2 hectares, if the Council is satisfied that:
 - (i) the allotment is intended to be used for the purpose of agriculture, and
 - (ii) the ratio of depth to frontage is satisfactory to the Council having regard to the intended use of the allotment for the purpose of agriculture.
 - (b) (Repealed)
- (6) The Council may grant consent in respect of an application to subdivide land located within a radius of 12 kilometres from the junction of State Highway No 21 (known as the Cobb Highway) and Main Road No 552 (known as the Deniliquin to Conargo Road) where each allotment to be created by the subdivision:
- (a) will have an area of not less than 2.5 hectares,
 - (b) will have a ratio of depth to frontage which is satisfactory to the Council, having regard to the purpose for which the allotment is intended to be used,
 - (c) will consist, in the opinion of the Council, of elevated country for at least 50 per cent of the area of the allotment,
 - (d) being an allotment which will have a major road frontage, will have a frontage of not less than 200 metres,
 - (e) will have an ingress to and egress from it that is satisfactory to the Council,
 - (f) will be provided with utility services which, in the opinion of the Council, are adequate or has had arrangements (which in the opinion of the Council are satisfactory) made with respect to it for the provision of utility services,
 - (g) will, in the opinion of the Council, be comprised of a sufficient proportion of well-drained sandy soil dune formation, the dunes being not less than 3 metres high, and
 - (h) will be used for a purpose which in the opinion of the Council will not result in accelerated soil erosion or salinization.
- (7) Except as provided by subclause (8), the total number of concessional allotments that may be created (whether by one or more subdivisions made at any time on or after the appointed day) from an existing holding is:
- (a) where the area of the existing holding is not less than 20 and not more than 40 hectares—1,

- (b) where the area of the existing holding is more than 40 hectares—2.
- (8) The total number of allotments that may be created (whether by one or more subdivisions made at any time on or after the appointed day) from an existing holding, being land to which subclause (6) applies, is 10.
- (9) The Council may grant consent in respect of an application to subdivide land to which this clause applies (other than land to which subclause (6) applies) so as to create an allotment having an area of less than 40 hectares if the Council is satisfied that:
 - (a) the allotment is intended to be used for a purpose (other than of agriculture or a dwelling-house) for which it may be used without, or only with, the consent of the Council, and
 - (b) the ratio of depth to frontage is satisfactory, having regard to the purpose for which the Council is satisfied the allotment is intended to be used.

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.

11A Subdivision for the purposes of dwellings in Zone No 1 (c)

- (1) The Council may grant consent to the subdivision of land within Zone No 1 (c) if:
 - (a) the average area of each allotment to be created as a result of the subdivision is not less than 2 hectares, and
 - (b) the area of each allotment to be created as a result of the subdivision is not less than 5 000 square metres.
- (2) If communal land is provided and developed for the communal use of future owners of allotments within a subdivision of land referred to in subclause (1) and the Council is satisfied that the development will enhance the amenity of the locality, the area of the communal land may be included in calculating the average lot size of that subdivision.
- (3) The Council shall not grant consent to the subdivision of land under subclause (1) unless it has taken into consideration:
 - (a) the land capability (including soil resources and soil stability), natural constraints and hazards of the land to be subdivided in relation to the density of the allotments proposed to be created,
 - (b) the desirability of providing a range and mixture of allotment sizes, and
 - (c) whether the design of each allotment to be created by the subdivision is satisfactory for the economic provision of services and the physical stability of the land for on-site disposal of wastes.

12 Subdivision of village land—Zone No 2

The Council shall not grant consent to an application to subdivide land within Zone No 2 unless each allotment of land to be created by the subdivision will have an area of not less than 1 000 square metres.

13 Dwelling-houses—rural land

- (1) This clause applies to land within Zone No 1 (a).
- (2) Except with the consent of the Council, a person shall not erect a dwelling-house on an allotment of land to which this clause applies having an area of less than 40 hectares.
- (3) The Council shall not grant consent to the erection of a dwelling-house on an allotment of land to which this clause applies having an area of less than 40 hectares unless the allotment:
 - (a) comprises the whole of an existing holding, within the meaning of clause 11 (or an allotment which formed part of any such existing holding) being an allotment created by a subdivision effected on or after the appointed day for one or more of the purposes referred to in clause 11 (9) and on which no dwelling-house is erected, and the Council is satisfied that:
 - (i) there will be adequate vehicular access to the dwelling-house,
 - (ii) the erection of the dwelling-house will not create or increase ribbon development along a main road, and
 - (iii) adequate public utility services are or will be available to the existing holding,
 - (b) is an allotment referred to in clause 11 (5) (a) and the Council is satisfied that the dwelling-house is ancillary or subsidiary to the present or intended use of the land for the purpose of agriculture, or
 - (c) (Repealed)
 - (d) is an allotment created by a subdivision referred to in clause 11 (6).
- (4) One additional dwelling-house may, with the consent of the Council, be erected on land to which this clause applies if the Council is satisfied that each such additional dwelling-house will be actually occupied by a person employed or engaged by the owner of the land in the use, for the purpose of agriculture, of that land or land belonging to that owner which adjoins or is adjacent to that land.
- (5) A dwelling-house may, with the consent of the Council, be erected on an allotment of land to which this clause applies on which another dwelling-house is erected if the first-mentioned dwelling-house is intended to wholly replace the second-mentioned

dwelling-house.

- (6) The Shire Clerk of the Council may issue a certificate to the effect that the land specified or described in the certificate is an existing holding to which subclause (3) (a) applies and, where any such certificate has been issued, the land so specified or described shall be deemed to be an existing holding for the purposes of that paragraph.

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 Consultation with the Director-General, Department of Agriculture

- (1) The Council shall not determine an application referred to in clause 11 (4), 11 (5) (a), 11 (9), 13 (3) (a), 13 (3) (b) or 13 (4) unless it has referred a copy of the application to the Director-General of the Department of Agriculture nor until:
 - (a) it has received a written representation in respect of the application from the Director-General,
 - (b) the Director-General has notified the Council in writing that the Director-General does not wish to make a representation in respect of the application, or
 - (c) 21 days have elapsed after the day upon which the copy of the application was referred to the Director-General,

whichever occurs first.

- (2) Where the Council has received a written representation in accordance with subclause (1) (a), it shall take that representation into consideration before determining the application.

15 Boarding-houses and residential flat buildings—Zone No 2

The Council shall not grant consent to an application to erect a boarding-house or a residential flat building within Zone No 2 except on an allotment of land created by a subdivision referred to in clause 12.

16 Development of floodways or on flood liable land

- (1) A person shall not erect a building or carry out work on land within a floodway without

the consent of the Council.

- (2) The Council shall not grant consent to the erection of a building or the carrying out of work on land referred to in subclause (1) unless it has made an assessment of:
- (a) the likelihood of any increase in the level of flooding,
 - (b) the likelihood of a substantial increase in the velocity of floodwaters through any adjoining land,
 - (c) the likelihood of erosion or siltation,
 - (d) any adverse effect on riparian vegetation, and
 - (e) the effect on the water table of adjoining land,
- if development were to be carried out in accordance with the consent.
- (3) The Council shall not grant consent to the erection of a dwelling-house on flood liable land unless each habitable floor of any building that is or will be erected on that land in accordance with that consent will be not less than 0.5 metres above the level which at the time of granting development consent is predicted by the Council to be the highest level which will be attained by floodwater at least once in 100 years in the Shire of Conargo.

17 Caravan parks

A person shall not carry out development of land within Zone No 1 (a) for the purpose of a caravan park unless the site has an area of not less than 2 hectares.

18 Rural activities near boundary

A person shall not carry out development, without the consent of the Council, within 200 metres of any boundary of an allotment of land within Zone No 1 (a) for the purposes of it dairy, a kennel or a stable.

19 Development along main roads

- (1) The Council shall not grant consent to an application to develop land which has frontage to a main road, unless, in the opinion of the Council:
- (a) access to that land is provided by a road other than the main road, wherever practicable, and
 - (b) the safety and efficiency of the main road will not be adversely affected by the development of that land for that purpose, by reason of:
 - (i) the design of the access to that land,
 - (ii) the emission of smoke or dust from that land, or

(iii) the nature, volume or frequency of vehicles turning to and from the main road to the access to that land.

(2) The Council shall not consent to the development of land in Zone No 1 (a), for a purpose listed in Schedule 2 if the development of the land for that purpose will have direct access to a main road or to a road connecting to a main road, and the access to that road is within 90 metres (measured along the road alignment of the connecting road) of the alignment of the main road.

20 Foreshore building line

(1) In this clause:

bank means a change in slope that defines the extent of the bed of any lake or river.

bed means the land that contains any lake or river, including that which is alternatively inundated or left bare from a rise or fall in the supply of water, but does not include any land that is inundated only in a time of flood.

Billabong Creek Estate means Lots 2-8, 10-13, 15, 17, 18, 20-22 and 24-35, DP 285618, Parish of North Conargo, County of Townsend.

lake and **river** have the same meaning as they have in the [Water Management Act 2000](#).

(2) A person must not erect a building or carry out work on land that is less than 70 metres from the bank of a lake or river specified in Schedule 3.

(3) Nothing in subclause (2) prevents a person from:

(a) carrying out development for the purposes of irrigation, fencing or utility installations on any land, or

(b) carrying out development for any other purpose, with the consent of the council, on land that is less than 70 metres but not less than 40 metres from a bank of Billabong Creek if that land is in the Billabong Creek Estate.

21 Sandhill erosion prevention in Zone No 1 (a)

The Council shall not grant consent to development for any purpose on land shown hatched on the map (other than land referred to in clause 11 (6)) unless the Council is satisfied that:

(a) not less than 10 per cent of the trees in existence on that land at the appointed day will be retained and in a formation which, in the opinion of the Council, will provide the best protection for the prevention of erosion on that land, or

(b) in the absence of existing trees which in the opinion of Council would provide the best protection for the prevention of erosion of that land, a windbreak will be established

and maintained to the satisfaction of Council.

22 Tourist accommodation

- (1) A person may, with the consent of the Council, carry out development for the purpose of the provision of accommodation for tourists on land within Zone No 1 (a).
- (2) The Council shall not grant that consent unless it is satisfied that the land is intended to be used mainly for the purpose of a rural activity.

23 Community use of school facilities and sites

- (1) Where land to which this plan applies is used for the purpose of an educational establishment, the site and facilities of the establishment may, with the consent of the Council, be used for the purpose of meeting rooms, public halls, public libraries, entertainment, sport or recreation or for any other community purpose, whether or not any such use is a commercial use of the land.
- (2) Nothing in this clause requires development consent to be granted for the carrying out of development on any land if that development, could, but for this clause, be carried out on that land without development consent.

24 Dual occupancy

- (1) A person may, with the consent of the Council:
 - (a) alter or add to a dwelling-house erected on an allotment,
 - (b) erect 2 attached dwellings on an allotment, or
 - (c) erect 2 dwelling-houses on an allotment,but only if, in the result, there are not more than 2 dwellings on the allotment.
- (2) The Council shall not grant consent to an application to enable development to be carried out as referred to in subclause (1) unless it is satisfied that:
 - (a) arrangements satisfactory to it have been made for the provision of a water supply to each dwelling which will result from carrying out the development and for the disposal of sewerage and stormwater drainage from each dwelling, and
 - (b) there is adequate access to the allotment.
- (3) The provisions of this plan relating to residential flat buildings do not apply to development permitted under this clause.
- (4) The separate occupation of the several lots illustrated by a proposed strata plan relating to land to which this plan applies and in respect of which a development application has been made to enable development to be carried out as referred to in

subclause (1) is prohibited.

- (5) For the purpose of enabling development to be carried out in accordance with this clause or in accordance with a consent granted under the Act, 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, the Governor approved of subclause (5).

25 Land subject to bushfire hazards

The Council shall not grant consent to the subdivision of, or 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, and
- (b) adequate safeguards are effected in the form of fire breaks, reserves and fire radiation zones.

26 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 4 for a purpose specified in relation to that land in that Schedule, subject to such conditions (if any) as may be 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 any such development.

Schedule 1

(Clause 9)

Bulk store
Boarding-house
Caravan park
Car repair station
Commercial premises
Drive-in take-away food shops
Generating works
Industry
Light industry
Motel
Motor showroom

Residential flat building
Road transport terminal
Service station
Tourist facilities
Transport terminal
Units for aged persons
Utility installation
Warehouse

Schedule 2

(Clause 19)

Development restricted along main roads in Zone No 1 (a)
Bulk stores
Car repair stations
Caravan parks
Commercial premises
Hotels
Industries (other than home or rural industries)
Junk yards
Mines
Motels
Place of public assembly
Recreation facilities
Refreshment rooms
Retail plant nurseries
Roadside stalls
Sawmills
Service stations
Stock and sale yards
Transport terminals (other than bus stations)
Warehouses

Schedule 3

(Clause 20)

So much of each of the following as is within the Shire of Conargo and known as:

Billabong Creek (also known as the Moulamein Creek)

Delta Creek

Forest Creek (also known as the Thulabin Creek)

Little Forest Creek

Tuppal Creek

Yanko Creek

Schedule 4 Development for certain additional purposes

(Clause 26)

Portion 57, Parish of North Conargo, County of Townsend—caravan park.