

# Parkes Local Environmental Plan 1990

[1990-785]



New South Wales

## Status Information

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### Authorisation

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File last modified 15 December 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 plan applies .....                               | 5  |
| 4 Relationship to other environmental planning instruments ..... | 5  |
| 5 Interpretation .....   | 5  |
| 6 Adoption of Model Provisions .....                             | 9  |
| 7 Consent authority .....  | 9  |
| <b>Part 2 General restrictions on development of land</b> .....  | 9  |
| 8 Zones indicated on the map .....                               | 9  |
| 9 Zone objectives and development control table.....             | 10 |
| <b>Part 3 Special provisions</b> .....                           | 16 |
| 9A What is exempt and complying development? .....               | 16 |
| 10 Subdivision .....   | 17 |
| 11 Development that must be advertised .....                     | 17 |
| 12 Clearing .....  | 17 |
| 13 Subdivision of land within Zone No 1 (a) .....                | 18 |
| 14 Dwelling-houses—Zone No 1 (a).....                            | 18 |
| 14A Dwelling entitlements on existing concessional lots .....    | 19 |
| 15 Development on land within Zone No 1 (c) .....                | 20 |
| 15A Development on land within Zone No 4 (a) .....               | 21 |
| 16 Development on main and arterial road frontages .....         | 22 |

|   |           |
|---|-----------|
| 17 Building lines .....   | 23        |
| 18 Advertisements .....   | 23        |
| 19 Flood prone land.....  | 23        |
| 20 Roads, drainage, recreation areas and parking .....                              | 24        |
| 21 Railway land .....   | 24        |
| 22 Suspension of certain laws etc .....   | 24        |
| 23 Preservation of trees .....  | 25        |
| 24 Development near boundary of adjacent zones .....                                | 25        |
| 25 Heritage items.....  | 26        |
| 26 Development in the vicinity of heritage items.....                               | 26        |
| 27 Heritage advertisements and notifications.....                                   | 26        |
| 28 Provisions relating to heritage items covered by a conservation instrument ..... | 27        |
| 29 Conservation incentives .....  | 27        |
| 30 Land subject to bushfire hazards.....  | 27        |
| 31 Temporary accommodation .....  | 28        |
| 32 Development for certain additional purposes.....                                 | 29        |
| <b>Schedule 1 Heritage items .....</b>  | <b>29</b> |
| <b>Schedule 2 (Repealed) .....</b>  | <b>29</b> |
| <b>Schedule 3 Development for certain additional purposes.....</b>                  | <b>29</b> |

# Parkes Local Environmental Plan 1990



New South Wales

## Part 1 Preliminary

### 1 Name of plan

This plan may be cited as *Parkes Local Environmental Plan 1990*.

### 2 Aims, objectives etc

(1) The aims of this plan are:

- (a) to consolidate and update planning controls for the Shire of Parkes in the one instrument,
- (b) to provide flexible planning controls to assist the council in its administration of planning,
- (c) to enable the council to prepare development control plans to introduce more detailed policies and guidelines,
- (d) to preserve prime agricultural land and to encourage the location of non-agricultural development in rural areas on less productive land,
- (e) to encourage the continuation of agricultural enterprise, while accommodating new types of agricultural activity, land uses which support agriculture, or changes to agriculture due to economic conditions,
- (f) to encourage the continued development of the town of Parkes as the main service and industrial centre in the district,
- (g) to encourage further development in the main villages in the Shire and the maintenance of their facilities and services,
- (h) to conserve the environmental heritage of the Shire of Parkes,
- (i) to provide a range of housing opportunities, including the future urban growth of Parkes and rural residential development in the vicinity of Parkes,
- (j) to ensure that the council has adequate power to deal with inappropriate

development, particularly development likely to degrade the land, and

(k) to provide opportunities for the expansion of the tourism industry.

(2) The objectives of the zones adopted by this plan for the purpose of achieving the aims in subclause (1) are set out in relation to those zones in the Table to clause 9.

### 3 Land to which plan applies

This plan applies to all land within the Shire of Parkes indicated on the map.

### 4 Relationship to other environmental planning instruments

This plan:

(a) repeals *Interim Development Order No 1—Shire of Goobang*, and

(b) repeals *Interim Development Order No 1—Municipality of Parkes*.

### 5 Interpretation

(1) In this plan:

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

**alter**, in relation to a heritage item or to a building or work within a heritage conservation area, means:

(a) the making of structural changes to the outside of the heritage item, building or work, or

(b) the making of non-structural changes to the detail, fabric, finish or appearance of the outside of the heritage item, building or work but not including the maintenance of the existing detail, fabric, finish or appearance of the outside of the heritage item, 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 on which this plan takes effect.

**community centre** means a building or place owned or controlled by the council and used to provide facilities comprising or relating to any one or more of the following or any other like facilities:

(a) a public library,

- (b) public health services,
- (c) rest rooms,
- (d) meeting rooms,
- (e) indoor recreation,
- (f) child minding facilities.

**council** means the Council of the Shire of Parkes.

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

**existing holding** means any area of adjoining or adjacent land to which this plan applies held in the same ownership on and from the appointed day and includes such an area:

- (a) from which land has been excised for a public purpose after that date,
- (b) affected by a subdivision for the purposes of boundary adjustment after that date, and
- (c) that has been transferred in its entirety to another person after that date.

**extractive material** means sand, gravel, clay, turf, soil rock, stone or any similar substance, but does not include any pure metal or any substance extracted for the purpose of refinement to obtain a metal or mineral.

**heritage conservation area** means any area shown on the map as a heritage conservation area.

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

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

**home occupation** means an occupation carried on in a dwelling-house or in a dwelling in a residential flat building by the permanent residents of the dwelling-house or dwelling which does not involve:

- (a) the registration of the building under the *Factories, Shops and Industries Act 1962*, except where registration is required by reason only of the installation and use in the dwelling-house or dwelling of not more than one electric motor having a capacity of not more than 500 watts,
- (b) the employment of more than 2 persons other than those residents,

- (c) interference with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil or otherwise,
- (d) the display of goods, whether in a window or otherwise, or
- (e) the exhibition of any notice, advertisement or sign (other than a notice or sign exhibited on the dwelling-house or dwelling to indicate the name and occupation of the resident).

**intensive livestock keeping establishment** means a building or place in which or upon which cattle, sheep, goats, poultry or other livestock are held for the purpose of 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 farming (including farming of crustaceans and 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.

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

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

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

**recreation area** means:

- (a) a children's playground, or
- (b) an area used for sporting activities or sporting facilities, or
- (c) an area used to provide facilities for recreational activities which promote the physical, cultural or intellectual welfare of persons within the community, being facilities provided by:
  - (i) the council, or

- (ii) a body of persons associated for the purposes of the physical, cultural or intellectual welfare of persons within the community,

but does not include a racecourse or a showground.

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

**research establishment** means a laboratory or other place where scientific or technological development or research is carried out.

**stable** means a building or place used for the purpose of receiving, maintaining, boarding or keeping horses.

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

**the map** means the series of maps marked “Shire of Parkes Local Environmental Plan 1990”, as amended by the map 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.

*Parkes Local Environmental Plan 1990 (Amendment No 1)*

*Parkes Local Environmental Plan 1990 (Amendment No 2)*

*Parkes Local Environmental Plan 1990 (Amendment No 4)*

*Parkes Local Environmental Plan 1990 (Amendment No 5)*

*Parkes Local Environmental Plan 1990 (Amendment No 6)*

(2) In this plan:

- (a) a reference to a building or place used for a purpose includes a reference to a building or place intended to be used for the purpose,
- (b) a reference to a map is a reference to a map deposited in the office of the council, and
- (c) a reference to land within a zone specified in the Table to clause 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 so specified.

(3) Notes in this plan do not form part of this plan.



## 6 Adoption of Model Provisions

- (1) Subject to subclause (2), the *Environmental Planning and Assessment Model Provisions 1980* (except for the definitions of **extractive material**, **home occupation** and **map** in clause 4 (1), and clauses 8 (7), 29, 33 and 34) are adopted for the purposes of this plan.
- (2) For the purposes of this plan:
  - (a) a reference in the definition of **arterial road** in clause 4 (1) of the *Environmental Planning and Assessment Model Provisions 1980* to a continuous red band on white shall be read as a reference to a broken black line,
  - (b) clause 35 (c) of the *Environmental Planning and Assessment Model Provisions 1980* shall not apply to a home occupation which employs persons other than a resident, and
  - (c) a reference in clause 8 of Schedule 1 to the *Environmental Planning and Assessment Model Provisions 1980* to the widening of a road does not include a reference to the widening of a road on land acquired by the council for that purpose.

## 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 "A" Zone)—black edging and lettered "1 (a)".

Zone No 1 (c) (Rural (Small Holdings) Zone)—black edging and lettered "1 (c)".

Zone No 1 (f) (Rural (Forestry) Zone)—black edging and lettered "1 (f)".

Zone No 2 (v) (Urban and Village Zone)—black edging and lettered "2 (v)".

Zone No 4 (Industrial Zone)—black edging and marked "4".

Zone No 4 (a) (Industrial "Hub" Zone)—black edging and marked "4 (a)".

Zone No 5 (b) (Special Uses (Railways) Zone)—black edging and lettered "5 (b)".

Zone No 6 (Open Space Zone)—black edging and marked "6".

Zone No 6 (a) (Service Corridor Zone)—black edging and marked “6 (a)”.

Zone No 8 (National Parks and Nature Reserves Zone)—black edging and marked “8”.

## **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 consent”, “Only with consent”, and “Prohibited”, respectively, appearing in the matter relating to the zone.
- (3) Except as otherwise provided by this plan, the council shall not grant consent to the carrying out of development on land to which this plan applies unless the council is of the opinion that the carrying out of the development is consistent with the objectives of the zone within which the development is proposed to be carried out.

Table

### **Zone No 1 (a) (Rural “A” Zone)**

#### **1 The objectives of zone**

The objectives of this zone are:

- (a) to enable the continuation of traditional forms of rural land use and occupation and the development of new or changed forms of agricultural enterprise,
- (b) to enable other forms of development which are associated with rural activity, which require an isolated or rural location, or which support tourism objectives, and
- (c) to ensure that the type and intensity of development is appropriate in relation to the characteristics of the land, the rural environment, the need to protect agricultural activity from the effects of other development and the costs of providing public services and amenities.

## **2 Without consent**

Agriculture (other than ancillary dwellings and intensive livestock keeping establishments); forestry (other than ancillary dwellings and pine plantations).

## **3 Only with consent**

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

## **4 Prohibited**

Motor showrooms; residential flat buildings; shops (other than general stores).

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

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

The objectives of this zone are:

- (a) to enable appropriately staged development for the purposes of small holdings or hobby farms to be carried out on land which is suitable for those purposes,
- (b) to provide alternative forms of housing in the vicinity of Parkes, and
- (c) to enable other forms of development to be carried out on land within the zone if it is in keeping with the rural character of the locality and is compatible with existing or likely future small holdings or hobby farms.

#### **2 Without consent**

Agriculture (other than ancillary dwellings and intensive livestock keeping establishments); forestry (other than ancillary dwellings and pine plantations).

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

Agricultural purposes (other than those permitted without consent); bushfire fighting establishments; cemeteries; child care centres; community centres; dwelling-houses; educational establishments; forestry; general stores; home industries; home occupations; hospitals; picnic grounds; places of public worship; public buildings; reception establishments; recreation establishments; recreation facilities; research establishments; retail plant

nurseries; riding schools; rural industries; stables; storage and servicing of motor vehicles associated with the occupation of the occupier; tourist facilities; utility installations; veterinary hospitals; veterinary surgeons' establishments; any other purpose which in the opinion of the council is appropriately located in a small holdings zone and which is unlikely to adversely affect residential amenity.

#### **4 Prohibited**

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

### **Zone No 1 (f) (Rural (Forestry) Zone)**

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

The objectives of this zone are to enable the continuance or expansion of forestry and development for associated purposes.

#### **2 Without consent**

Agriculture (other than intensive livestock keeping establishments); any purpose ordinarily incidental or subsidiary to purposes permitted in this Item; camping grounds; forestry; gravel extraction on sites of less than 0.5 hectares; picnic grounds; roads; utility installations.

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

Extractive industries (other than those permitted without consent); mines.

#### **4 Prohibited**

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

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

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

The objectives of this zone are:

- (a) to provide a broad zone for the town of Parkes and to enable details to be provided by a development control plan,
- (b) to provide for the future expansion of the town of Parkes, and
- (c) to recognise existing villages and to enable future development appropriate to their function.

**2 Without consent**

Nil.

**3 Only with consent**

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

**4 Prohibited**

Feed lot establishments; institutions; junk yards; offensive and hazardous industries; pig keeping establishments; poultry farming establishments.

**Zone No 4 (Industrial Zone)**

**1 Objectives of zone**

The objectives of this zone are:

- (a) to encourage development which will generate employment and contribute to the needs of the Shire, and
- (b) to provide opportunities for non-industrial commercial activities that may reasonably be located in an industrial zone.

**2 Without consent**

Nil.

**3 Only with consent**

Any purpose which, by virtue of its nature, the services provided or the products produced, distributed or sold, is, in the opinion of the council, appropriately located in an industrial zone; industries; purposes associated with, ancillary to, dependent on, or which provide services to, industrial or other development permitted in this zone; utility installations.

**4 Prohibited**

Any purpose other than a purpose included in Item 3.

**Zone No 4 (a) (Industrial “Hub” Zone)**

**1 Objectives of zone**

The objectives of this zone are:

- (a) to recognise the Parkes “Hub” as a special industrial enterprise area,

specifically to nurture a multi-modal freight and transport interchange, and

- (b) to designate land for the accommodation of key industrial uses which are linked to the freight logistics industry, and
- (c) to encourage the growth of the freight logistics industry and capture consequent economic benefits for Parkes, and
- (d) to enable the continuation of agricultural land use within the zone.

## **2 Without consent**

Agriculture (other than ancillary dwellings and intensive livestock keeping establishments).

## **3 Only with consent**

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

## **4 Prohibited**

Boarding-houses; cemeteries; child care centres; churches; clubs; community centres; dwelling-houses; educational establishments; general stores; health care professionals; home industries; home occupations; hospitals; hotels; motels; motor showrooms; picnic grounds; places of public worship; reception establishments; recreation facilities; recreational establishments; retail plant nurseries; roadside stalls; shops; tourist facilities; units for aged persons; veterinary hospitals.

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

### **1 Objectives of zone**

The objectives of this zone are to recognise railway land and to provide for appropriate operational and associated development.

### **2 Without consent**

Railway purposes.

### **3 Only with consent**

Nil.

#### **4 Prohibited**

Any purpose other than a purpose included in Item 2.

### **Zone No 6 (Open Space Zone)**

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

This zone is intended to identify land which is set aside principally for the purposes of public recreation.

#### **2 Without consent**

Amenity buildings; works for the purposes of landscaping, gardening or bushfire hazard reduction.

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

Buildings for the purposes of landscaping, gardening or bushfire hazard reduction; caravan parks; racecourses; recreation areas; showgrounds; tourist facilities; utility installations.

#### **4 Prohibited**

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

### **Zone No 6 (a) (Service Corridor Zone)**

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

The objectives of this zone are:

- (a) to provide for the future construction of an arterial road network that efficiently links Parkes to other regions, and
- (b) to provide land for utility services, passive recreation and urban beautification works, and
- (c) to identify, protect and enhance habitat for flora and fauna and avoid negative impacts on adjoining natural areas.

#### **2 Without consent**

Works (other than buildings) for the purpose of landscaping, gardening or bushfire hazard reduction.

### 3 Only with consent

Buildings for the purpose of landscaping, gardening or bushfire hazard reduction; forestry (other than ancillary dwellings and pine plantations); picnic grounds; purposes associated with roads; recreation areas; utility installations; any other purpose which in the opinion of the council is appropriately located in a service corridor zone.

### 4 Prohibited

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

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

### 1 Objectives of zone

The objectives of this zone are:

- (a) to conserve the scenic and environmental qualities of the land, and
- (b) to enable the effective and efficient management of lands reserved or dedicated under the *National Parks and Wildlife Act 1974*.

### 2 Without consent

Development permissible under the *National Parks and Wildlife Act 1974* or by or on behalf of the Minister administering that Act.

### 3 Only with consent

Nil.

### 4 Prohibited

Any purpose other than a purpose included in Item 2.

## Part 3 Special provisions

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

- (1) Development of minimal environmental impact listed as exempt development in *Parkes Council Development Control Plan—Exempt Development* as adopted by the Council on 21 December 1999 is **exempt development**, despite any other provision of this plan.
- (2) Development listed as complying development in *Parkes Council Development Control Plan—Complying Development* as adopted by the Council on 21 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 *Parkes Council Development Control Plan—Exempt Development* and *Parkes Council Development Control Plan—Complying Development* as adopted by the Council on 21 December 1999.
- (4) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in *Parkes Council Development Control Plan—Complying Development* adopted by the Council, as in force when the certificate is issued.

## 10 Subdivision

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

## 11 Development that must be advertised

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:

- (a) for the purposes of a residential flat building, or
- (b) for any purpose (other than designated development) that the council determines requires advertising,

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

## 12 Clearing

- (1) In this clause, **clearing** means the removal of trees and other vegetation, but does not include the clearing of regrowth from land previously cleared for agricultural use, or the cutting down of individual trees for farm purposes such as fencing or firewood, which may be carried out without the consent of the council.
- (2) Subject to this clause, land within Zone No 1 (a), 1 (c) or 1 (f) may be cleared for the purposes of agriculture, forestry, air navigation safety, land survey, fencing or bushfire hazard reduction without the consent of the council, and for any other purpose with the consent of the council.
- (3) Nothing in subclause (2) authorises the clearing of land in contravention of any other Act or instrument made under an Act concerned with soil erosion, protection of

riverbank vegetation or catchment areas or the like.

- (4) A person shall not clear land within Zone No 1 (a) or 1 (c) identified as Class VII or Class VIII on a map prepared by the Soil Conservation Service of New South Wales (other than for the purposes of bushfire hazard reduction) without the consent of the council.
- (5) In granting consent to an application for clearing referred to in subclause (4), the council may attach conditions to the consent to minimise the risk of soil erosion.

### **13 Subdivision of land within Zone No 1 (a)**

- (1) Subject to subclause (2), the council may consent to a subdivision of land within Zone No 1 (a) so as to create an allotment of any area intended to be used for the purposes of agriculture.
- (2) The council shall not grant consent to a subdivision of land within Zone No 1 (a) which creates an allotment intended to be used for the purposes of agriculture if the allotment has an area of less than 400 hectares and there is a dwelling-house on that allotment.
- (3) Notwithstanding subclause (2), the council may consent to a subdivision of land within Zone No 1 (a) so as to create one (but not more than one) allotment having an area of less than 400 hectares from an existing holding which is intended to be used for the purposes of agriculture and on which a dwelling stands if that dwelling was lawfully erected on that land on or before the appointed day.
- (4), (5) (Repealed)
- (6) The council shall not consent to an application to subdivide land within Zone No 1 (a) where any allotment to be created by the subdivision is intended to be used primarily for purposes other than agriculture or a dwelling-house, unless, in the opinion of the council:
  - (a) the purpose for which the allotment is intended to be used involves the supply of goods or services for which there is, on the basis of information provided by the applicant, a demand in the locality, and
  - (b) no other available land in the locality could reasonably be used for that purpose.

#### **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.

### **14 Dwelling-houses—Zone No 1 (a)**

- (1) A person shall not erect a dwelling-house on land within Zone No 1 (a) without the consent of the council, other than on vacant land within Zone No 1 (a) having an area

of not less than 400 hectares.

- (2) Subject to this clause, the council shall not consent to the erection of a dwelling-house on vacant land within Zone No 1 (a) having an area of less than 400 hectares unless the land consists of:
  - (a) an existing holding,
  - (b) an allotment created in accordance with this plan for the purpose of erecting a dwelling-house or carrying out development for a permissible purpose other than agriculture, or
  - (c) an allotment created in accordance with a consent granted before the appointed day, being an allotment on which a dwelling-house could have been lawfully erected immediately before the appointed day.
- (3) Subject to this clause, the council may consent to the erection of a dwelling-house on land within Zone No 1 (a) only where:
  - (a) the use of the dwelling-house will be ancillary to the use of the land for a permissible purpose other than agriculture, and
  - (b) the council is satisfied that:
    - (i) the land could not reasonably be used for that other purpose without the erection of the dwelling-house, and
    - (ii) the dwelling-house is to be located so as to minimise any adverse effect on the use of the land for that other purpose.
- (4) Subject to the provisions of clause 15 of the *Environmental Planning and Assessment Model Provisions 1980* and this clause, only one dwelling-house may be erected on an allotment of land within Zone No 1 (a).
- (5) A person may, with the consent of the council, erect additional dwelling-house on an allotment of land within Zone No 1 (a) provided that any such additional dwelling-house is erected after the first dwelling-house and is used exclusively to accommodate a person employed or engaged in the use of the land for the purposes of agriculture.
- (6) Nothing in subclause (4) shall prevent the erection of a dwelling-house on land within Zone No 1 (a) on which another dwelling-house is erected where the dwelling is intended to replace the original dwelling and is not occupied until the original dwelling is demolished or its occupation has permanently ceased.

#### **14A 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.

**15 Development on land within Zone No 1 (c)**

- (1) Subject to this clause, the council shall not consent to the subdivision of land within Zone No 1 (c) unless each proposed allotment has an area determined by the council having regard to:
  - (a) the availability of reticulated water services or, if those services are unavailable, the capacity of the land to provide an adequate domestic water supply without adversely affecting any existing surrounding and downstream water supply,
  - (b) the ability of the land to accommodate septic disposal of household waste,
  - (c) the standard and capacity of public roads serving the land relative to the likely volume of traffic to be generated as a consequence of the density of the subdivision, and the means available to improve roads to a standard appropriate to the level of traffic likely to be generated,
  - (d) the availability of other utility services and social services relative to the likely demand for those services and the costs of their provision,
  - (e) the likely impact the development will have on other land, and in particular on land located between the land to be subdivided and major public roads and utility services,
  - (f) the nature and topography of the land as related to the density of subdivision,
  - (g) whether any source of pollution in the locality requires larger allotments to enable separation of dwellings from that source,
  - (h) the desirability of providing a range and mix of allotment sizes,
  - (i) the need to maintain a semi-rural character in the area, and
  - (j) the purpose for which the land is intended to be used after subdivision.
- (2) Subject to subclause (3), the council shall not consent to the subdivision of land within Zone No 1 (c) which creates allotments intended to be used for the erection of dwelling-houses if those allotments have an area of less than:
  - (a) in the case of an allotment to be connected to a reticulated water supply—8,000 square metres, or

- (b) in any other case—4 hectares.
- (3) The council may determine a different minimum allotment size from that specified in subclause (2), whether in a development control plan or otherwise, having regard to the matters referred to in subclause (1).
- (4) In considering an application for consent to a subdivision of land within Zone No 1 (c), the council shall have regard to:
  - (a) where the land may, in the opinion of the council, be suitable for long-term urban development, whether the subdivision has been designed to facilitate its possible future resubdivision,
  - (b) whether it is possible to construct a dam on each allotment, and
  - (c) whether the subdivision enables the subsequent erection of dwelling-houses in a manner that appropriately relates dwellings to each other and to the topography of the land.
- (5) Despite the other provisions of this clause, the council may grant consent to the erection of a dwelling-house on an existing allotment or portion of land within Zone No 1 (c).

**15A Development on land within Zone No 4 (a)**

- (1) The consent authority must not consent to the erection of buildings or the carrying out of works on land within Zone No 4 (a) unless:
  - (a) it has approved a development control plan incorporating a structure plan for the land, and
  - (b) it has considered the following:
    - (i) any noise impacts likely to be generated by the development,
    - (ii) any air quality impacts likely to be generated by the development,
    - (iii) any impacts due to the need for night lighting and illumination,
    - (iv) a soil and water management plan for construction and post construction phases of the development,
    - (v) a waste management plan for the development,
    - (vi) the likely effects of the development on existing vegetation and opportunities for revegetation of suitable areas,
    - (vii) the need to protect items or sites of Aboriginal heritage significance (being items or sites of cultural significance to indigenous inhabitants of New South

Wales),

(viii) the adequacy of utility services,

(ix) the relationship of the development to railway and road linkages.

(2) The consent authority must not consent to the subdivision of land within Zone No 4

(a) unless satisfied that:

(a) the subdivision is necessary for a purpose that directly facilitates the objectives of the Zone, and

(b) the proposed lot sizes are justified on the basis of achieving the objectives of the Zone.

(3) In this clause:

**structure plan** means a map or document (or both) that is adopted by the consent authority identifying land that is undeveloped or could potentially be redeveloped and that broadly describes the location or character (or both) of potential land use types, transport routes, infrastructure and services, open space and areas of environmental protection, constraints, hazards and the like.

## **16 Development on main and arterial road frontages**

(1) This clause applies to land:

(a) having frontage to a main or arterial road,

(b) which otherwise relies on a main or arterial road for its sole means of access, or

(c) which has access to a road which intersects with a main or arterial road, where the point of access is within 90 metres of the intersection of the road and the main or arterial road.

(2) The council shall not grant consent to the carrying out of development on land to which this clause applies unless it is satisfied that:

(a) the development by its nature or intensity or the volume and type of traffic likely to be generated is unlikely to constitute a traffic hazard or to materially reduce the capacity and efficiency of the main or arterial road,

(b) the development is of a type, whether or not related to the characteristics of the land on which it is proposed to be carried out, that justifies a location in proximity to a main or arterial road,

(c) the location, standard and design of access points, and on-site arrangements for vehicle movement and parking, ensure that through traffic movements on the main or arterial road are not impeded, and

(d) the development will not prejudice future improvements to or realignment of a main or arterial road, as may be indicated to the council from time to time by the Roads and Traffic Authority, or any associated intention of that Authority to declare part of the road as a controlled access road within the meaning of the *State Roads Act 1986*.

(3) Subject to this clause, the council may grant consent to development on land to which this clause applies which has frontage to a main or arterial road for the purposes of providing services to motorists, tourists and the travelling public, where the development comprises or is part of a planned roadside service area that has been located and designed so as to minimise interference with the free flow of traffic on the road and to minimise traffic hazards.

(4), (5) (Repealed)

### **17 Building lines**

Where land within Zone No 1 (a), 1 (c) or 1 (f) has frontage to a road, each building to be erected on the land shall be set back from the nearest alignment of the road at a distance determined by the council having regard to:

- (a) the nature, scale and function of the building,
- (b) the maximisation of sight distances for drivers using the road, including visibility of points of access to the road,
- (c) the minimisation of distractions to drivers using the road, and
- (d) any possible need to alter the road alignment in the future.

### **18 Advertisements**

- (1) Subject to this clause, an advertising structure shall not be erected and an advertisement shall not be displayed on any land within Zone No 1 (a), 1 (c) or 1 (f).
- (2) The council may consent to the erection of a single advertising structure on land referred to in subclause (1) for the purpose only of displaying a notice related to the purpose for which the land is used.
- (3) Nothing in this clause shall operate to prohibit the council or a person with the consent of the council from erecting advertising structures on land referred to in subclause (1) for the purpose of directing the travelling public to tourist areas or facilities or motorists' services, or for the display on such structures of private advertisements of tourist facilities or motorists' services.

### **19 Flood prone land**

The council may refuse consent to the carrying out of any development on land to which

this plan applies which, in its opinion, will:

- (a) affect the flood level at any point above or below the development,
- (b) increase, to a substantial degree, the flow of water on any adjoining flood liable land,
- (c) cause soil erosion, siltation or destruction of river bank vegetation,
- (d) affect the water table of any adjoining land, or
- (e) adversely affect river bank stability.

## **20 Roads, drainage, recreation areas and parking**

- (1) Nothing in Part 2 shall prevent the council from or require the council to obtain its own consent for carrying out development on land within any zone for the purposes of roads, stormwater drainage, recreation areas, tree planting, landscaping, gardening, bushfire hazard reduction, amenities buildings or parking.
- (2) A person may, with the consent of the council, (except in the case of tree planting, landscaping and gardening, which may be carried out without consent) carry out development on land within any zone for a purpose referred to in subclause (1).
- (3) The reference in subclause (1) to the carrying out of development for the purpose of roads includes a reference to the winning of extractive material by the council for the purpose of road construction.

## **21 Railway land**

An advertising structure may be erected on land within Zone No 5 (b) only with the consent of the council.

## **22 Suspension of certain laws etc**

- (1) For the purpose of enabling development to be carried out in accordance with this plan (as in force at the time the development is carried out) or in accordance with a consent granted under the Act:
  - (a) in relation to any development within any zone, the operation of any covenant, agreement or instrument imposing restrictions on the development, and
  - (b) in relation to development carried out in accordance with clause 15 of the *Environmental Planning and Assessment Model Provisions 1980*, section 37 of the *Strata Titles Act 1973*,to the extent necessary to serve that purpose, shall not apply to the development.
- (2) Nothing in subclause (1) (a) shall affect the rights or interests of any public authority under any instrument registered in the Land Titles Office.



- (3) Pursuant to section 28 of the Act, before the making of this plan:
- (a) the Governor approved of subclause (1), and
  - (b) the Minister for the time being administering the provision of the *Strata Titles Act 1973* referred to in subclause (1) concurred in writing in the recommendation for the approval of the Governor of that subclause in so far as that subclause relates to that provision.

### **23 Preservation of trees**

The powers conferred on the council in pursuance of clause 8 of the *Environmental Planning and Assessment Model Provisions 1980* shall not apply to trees:

- (a) in a State forest or on land reserved as a timber reserve within the meaning of the *Forestry Act 1916*, or on Crown lands within the meaning of that Act,
- (b) required to be lopped in accordance with Regulation 38 or 39 of the *Overhead Line Construction and Maintenance Regulations 1962*,
- (c) in any water catchment area under the control of an authority responsible for the water supply, or
- (d) in a national park within the meaning of the *National Parks and Wildlife Act 1974*.

### **24 Development near boundary of adjacent zones**

- (1) Subject to subclause (2), development may, with the consent of the council, be carried out on land within 20 metres of the boundary of any zone for any purpose for which development may be carried out within 20 metres of that boundary on land within the zone adjacent to the zone within which the development is to be carried out.
- (2) The council shall not grant consent to the carrying out of development pursuant to subclause (1), unless:
  - (a) the carrying out of the development is necessary, in the opinion of the council, due to design requirements relating to the subdivision of land to which this plan applies, and
  - (b) elsewhere, in the immediate vicinity of the site on which development may be carried out pursuant to the consent, an area of land is available, being an area:
    - (i) within which development may be carried out, with or without the consent of the council, for the purposes for which development could be carried out on the site in the absence of this clause, and
    - (ii) which is, in the opinion of the council, sufficient and suitable for the carrying out of development for the purposes referred to in subparagraph (i).

## 25 Heritage items

- (1) A person shall 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 shall not grant consent to a development application under subclause (1) unless it has taken into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the item and any stylistic or horticultural features and its setting.

### Note—

The website of the Heritage Branch of the Department of Planning has publications that provide guidance on assessing the impact of proposed development on the heritage significance of items (for example, *Statements of Heritage Impact*).

## 26 Development in the vicinity of heritage items

The council shall not grant consent to an application to carry out development on land in the vicinity of a heritage item unless it has made an assessment of the effect the carrying out of that development will have on the heritage significance of the item and its setting.

## 27 Heritage advertisements and notifications

- (1) Except as provided by subclause (2):
    - (a) the provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of:
      - (i) the demolition of a building or work that is a heritage item,
      - (ii) the demolition of a building or work within a heritage conservation area, and
      - (iii) the use of a building or land referred to in clause 28 for a purpose which, but for that clause, would be prohibited under this plan,
- in the same way as those provisions apply to and in respect of designated development, and

(b) (Repealed)

- (2) Subclause (1) 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 Shire of Parkes.

## **28 Provisions relating to heritage items covered by a conservation instrument**

Clauses 25 and 27 shall not apply where the building, work, relic or place that is a heritage item or is within a heritage conservation area is the subject of a conservation instrument within the meaning of the [Heritage Act 1977](#).

## **29 Conservation incentives**

- (1) Nothing in this plan prevents the council from granting consent to an application for:
- (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 granting consent under this clause.
- (2) When considering an application to erect a building on land on which there is situated a building which is a heritage item, the council may:
- (a) for the purposes of determining the floor space ratio, and
  - (b) for the purposes of determining the number of parking spaces to be provided on the site,

exclude from its calculation of the floor space of the buildings erected on the land the floor space of the item, but only if the council is satisfied that the conservation of the building depends upon the council granting consent under this clause.

## **30 Land subject to bushfire hazards**

- (1) The council shall not grant consent to the carrying out of any development on land to which this plan applies which, in the opinion of the council, is subject to bushfire hazards, until it has made an assessment of:

- (a) the nature and degree of the hazard, relative to the appropriate measures available to reduce the hazard,
  - (b) in the case of a subdivision of land:
    - (i) whether the subdivision has been designed to enable the siting of any buildings to be erected on the land in areas of least risk,
    - (ii) the necessity for the inclusion of a perimeter road in the subdivision, or on land adjoining the subdivision, for the purposes of providing a fire break and access for fire fighting vehicles, and
    - (iii) the necessity to increase the depth of allotments adjoining land which may be the source of bushfire hazard, whether or not defined by a perimeter road, for the purposes of providing a fire radiation zone,
  - (c) in the case of the erection of buildings:
    - (i) whether the buildings have been sited in a manner which reduces bushfire hazard, and
    - (ii) the necessity for the use of fireproof building materials,
  - (d) the means of access for firefighting vehicles, and
  - (e) the means available to ensure that fire protection measures, including fire radiation zones and hazard reduction, are appropriately maintained.
- (2) The council may refuse consent to a development application where it is of the opinion that the development is inappropriate having regard to bushfire hazard affecting the land the subject of the application.

### **31 Temporary accommodation**

The council may grant consent to the carrying out of development for the purposes of temporary accommodation, including a hostel, caravan park or construction camp, on any land to which this plan applies if the council is satisfied that:

- (a) the development, by virtue of its location, scale, site landscaping and treatment, and temporary nature, is unlikely to conflict significantly with the objectives of the zone applying to the land on which the development is proposed to be carried out,
- (b) appropriate arrangements have been made for water supply, sewage disposal and stormwater drainage, other utility services, access and parking in relation to that land, and
- (c) the development is unlikely to interfere with the amenity of any residential neighbourhood in the vicinity.

### 32 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 included in Schedule 3 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.

### Schedule 1 Heritage items

(Clause 2 (1))

| Location  | Address   | Building/Area                  |
|-----------|---|--------------------------------|
| Parkes    | Church Street, corner of Hill Street                      | St George's Anglican Church    |
| Parkes    | 230 Clarinda Street, corner of Welcome and Dalton Streets | National Bank                  |
| Parkes    | Court Street, corner of Currajong and Hill Streets        | Courthouse group               |
| Parkes    | Court Street, corner of Currajong Street                  | Courthouse                     |
| Parkes    | Court Street, corner of Currajong Street                  | Post office                    |
| Parkes    | Court Street, corner of Hill Street                       | Police station                 |
| Parkes    | Victoria Street, corner of Ward Street                    | Showground pavilion            |
| Peak Hill | Caswell Street, corner of Narra Street                    | St James Roman Catholic Church |
| Peak Hill | Newell Highway  | Peak Hill District Hospital    |

### Schedule 2 (Repealed)

### Schedule 3 Development for certain additional purposes

(Clause 32)