

Moree Plains Local Environmental Plan 1995

[1995-182]



New South Wales

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New South Wales

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Moree Plains Local Environmental Plan 1995



New South Wales

Part 1 Preliminary

1 Name of plan

This plan may be cited as *Moree Plains Local Environmental Plan 1995*.

2 Objectives of the plan

The general objectives of this plan are:

- (a) to encourage the proper management, development and conservation of natural and man-made resources within the Moree Plains area to promote the social and economic well-being of the community and the protection of the environment, and
- (b) to replace the former planning controls with a single local environmental plan to help facilitate growth and development in the Moree Plains area in a manner which is consistent with the objective specified in paragraph (a) and which:
 - (i) protects and improves the economic base of the area,
 - (ii) facilitates the efficient and effective delivery of amenities and services,
 - (iii) protects, enhances and conserves prime crop and pasture resources,
 - (iv) facilitates a range of residential and employment opportunities in accordance with demand,
 - (v) facilitates farm adjustments,
 - (vi) ensures that the safety and efficiency of arterial roads are not adversely affected by development on adjacent land,
 - (vii) minimises the impact of flooding and bushfires,
 - (viii) encourages the separation of conflicting land uses, and
 - (ix) protects the heritage significance of the area.

3 Application of the plan

This plan applies to all land within the Moree Plains area as shown on the map within the boundaries shown on the map.

4 Relationship to other environmental planning instruments

This plan repeals *Moree Plains Local Environmental Plan 1985*.

5 Definitions

(1) In this plan:

abattoir means a building or place used for the slaughter of animals or birds, whether or not animal by-products are processed, manufactured or distributed at or from the building or place.

advertising means the use of a building or place for the display of symbols, messages or other devices for promotional purposes, whether or not the display involves the erection of a structure or the carrying out of a work.

agriculture and **cultivation** include horticulture and the use of land for any purpose of husbandry, including the keeping or breeding of livestock or bees, and the growing of fruit, vegetables and the like.

agricultural machinery showroom means a building or place used for the display or sale of agricultural machinery whether or not agricultural machinery accessories are sold or displayed at the building or place.

ancillary dwelling means a dwelling used by persons engaged in predominantly non-residential use of the land on which the dwelling is situated.

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

appointed day means the day on which this plan took effect.

archaeological site means a site identified on the map as an archaeological site.

arterial road means an existing road indicated on the map by heavy broken black lines.

caravan park means land (including a camping ground) used for the accommodation of caravans or other moveable dwellings, within the meaning of the [Local Government Act 1993](#).

carpark means a building or place used for parking vehicles, whether operated for gain or not, and includes manoeuvring space and access to the building or place.

community facility means a building owned by a public authority or a body of persons which may be used for the physical, social, cultural, or intellectual development or welfare of the local community, and includes an art or craft gallery, a health centre, an information centre, a kiosk, a museum, a library, a youth centre, a restroom, a neighbourhood centre, a welfare centre and a senior citizens centre and the like, but does not include a building or place elsewhere defined for the purposes of this plan.

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

council means the Moree Plains Council.

demolish, in relation to a heritage item or a building, work, relic, tree or place within a heritage conservation area, means wholly or partly destroy or dismantle the heritage item or building, work, relic, tree or place.

existing holding means:

- (a) the area of a lot, portion or parcel of land as it was at the appointed day, or
- (b) if, as at the above date, a person owned 2 or more adjoining or adjacent lots, portions or parcels of land, the combined area of those lots, portions or parcels as they were at that day.

heritage conservation area means an area identified on the map as a heritage conservation area.

heritage item means a building, work, relic, tree or place identified in Schedule 1 as a heritage item.

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

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

- (a) feed lots,
- (b) piggeries,
- (c) poultry farms, and
- (d) fish farms (including crustacean and oyster farms),

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, or the intensive hand feeding of livestock as a result of a natural disaster such as drought, flood or bushfire.

potential archaeological site means a site identified on the map as a potential archaeological site and includes a site known to the consent authority to have archaeological potential even if it is not so identified.

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

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

recreation area means:

- (a) a children's playground,
- (b) 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) a public authority, 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 relating to:

- (a) the use or settlement of the area to which this plan applies, not being Aboriginal habitation, which is more than 50 years old, or
- (b) Aboriginal habitation of the area to which this plan applies, either before or after its occupation by persons of European extraction, and, in relation to Aboriginal habitation or the area, includes human remains.

rural industry means handling, treating, processing or packing of primary products and includes the servicing in a workshop of plant or equipment used for rural purposes in the locality, and also includes the processing, manufacture and distribution of products and services directly related to rural activities in the locality.

the map means the set of maps marked “*Moree Plains Local Environmental Plan 1995*” as amended by the maps (or the specified sheets of maps) marked as follows:

Editorial note—

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

Moree Plains Local Environmental Plan 1995 (Amendment No 1)

Moree Plains Local Environmental Plan 1995 (Amendment No 2)

Moree Plains Local Environmental Plan 1995 (Amendment No 5)

Moree Plains Local Environmental Plan 1995 (Amendment No 11)

Moree Plains Local Environmental Plan 1995 (Amendment No 13)

veterinary clinic means a building or place used by a veterinary practitioner for the purpose of dealing with the prevention, cure, treatment or alleviation of disease or injury in animals.

(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) The *Environmental Planning and Assessment Model Provisions 1980*, except for:

- (a) the definitions of **advertising structure, advertisement, agriculture, arterial road, map** and **rural industry** in clause 4 (1), and
- (b) clauses 15, 29 and 34,

are adopted for the purposes of this plan.

(2) The definition of **commercial premises** in clause 4 (1) of the *Environmental Planning and Assessment Model Provisions 1980* is adopted as if there were inserted after the word “clause” wherever occurring in the definition the words “or clause 5 of *Moree Plains Local Environmental Plan 1995*”.

7 Consent authority

The council is the consent authority for the purposes of this plan.

Part 2 Zones

8 Zones indicated on the map

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

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

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

Zone No 1 (f) (Forestry)—edged heavy black and lettered “1 (f)”.

Zone No 2 (a) (Residential)—edged heavy black and lettered “2 (a)”.

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

Zone No 3 (Business)—edged heavy black and lettered “3”.

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

Zone No 5 (Special Uses—Community Purposes)—edged heavy black and lettered “5”.

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

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

Zone No 7 (Environmental Protection—Habitat)—edged heavy black and lettered “7”.

Zone No 8 (National Parks and Nature Reserves)—edged heavy black and lettered “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” in relation to the zone.

(2) Development of land within a zone:

(a) may be carried out without development consent,

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

(c) is prohibited,

as indicated under the headings “Without development consent”, “Only with development consent” and “Prohibited” appearing in the matter relating to the zone in

the Table to this clause.

- (3) The council should not consent to development of land within a zone unless the council is satisfied that carrying out the development will be consistent with the objectives of the zone.

Development Control Table

Zone No 1 (a) (General Rural)

1 Objectives of zone

The objective is to promote the proper management and utilisation of resources by:

- (a) protecting, enhancing and conserving:
- (i) agricultural land, in a manner which sustains its potential for efficient and effective agricultural production,
 - (ii) soil stability by controlling and locating development in accordance with soil capability,
 - (iii) forests of existing and potential commercial value for timber production,
 - (iv) valuable deposits of minerals and extractive materials by controlling the location of development for other purposes in order to ensure the efficient extraction of those deposits,
 - (v) trees and other vegetation in environmentally sensitive localities where the conservation of the vegetation is significant to scenic amenity or natural wildlife habitat or is likely to control land degradation,
 - (vi) water resources for use in the public interest,
 - (vii) localities of significance for nature conservation, including places with rare or endangered plants or animals, wetlands and significant habitat, and
 - (viii) places, items and buildings of heritage significance,
- (b) preventing the unjustified development of prime crop and pasture land for purposes other than agriculture,
- (c) facilitating farm adjustments,

- (d) minimising the cost to the community of:
 - (i) fragmented and isolated development of rural land, and
 - (ii) providing, extending and maintaining public amenities and services,
- (e) providing land for other non-agricultural purposes, in accordance with the need for that development, and
- (f) providing land for future long term urban development.

2 Without development consent

Development for the purpose of:

agriculture (other than ancillary dwellings and intensive livestock keeping establishments); forestry (other than ancillary dwellings).

3 Only with development consent

Development not included in item 2 or 4.

4 Prohibited

Development for the purpose of:

boarding houses; bulkstores; commercial premises (excluding timber yards); hospitals; hotels; industries (other than rural industries, extractive and offensive or hazardous industries); motor showrooms; refreshment rooms; residential flat buildings; shops; taverns; warehouses.

Zone No 1 (c) (Rural Small Holdings)

1 Objectives of zone

The objectives are:

- (a) to provide opportunities for rural residential living in places in close proximity to existing urban centres where services are readily and economically accessible,
- (b) to minimise the cost of development to the general community by requiring persons benefiting from rural residential development to provide, at their own cost, their own on-site utility services, where appropriate,
- (c) to preserve and enhance the amenity of the rural residential land within

the area, and

- (d) to ensure a variety of lot sizes which are compatible with existing land use and reflect land capability.

2 Without development consent

Development for the purpose of:

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

3 Only with development consent

Development not included in item 2 or 4.

4 Prohibited

Development for the purpose of:

abattoirs; advertising; agricultural machinery showrooms; boarding-houses; bulkstores; bus depots; car repair stations; clubs; commercial premises; hotels; industries (other than home industries); institutions.

Zone No 1 (f) (Forestry)

1 Objectives of zone

The objective of this zone is to permit forestry activities carried out by or on behalf of the Forestry Commission.

2 Without development consent

Development for the purpose of:

agriculture; anything authorised under the *Forestry Act 1916*.

3 Only with development consent

Development for the purpose of:

extractive industries; mines; utility installations.

4 Prohibited

Development not included in item 2 or 3.

Zone No 2 (a) (Residential)

1 Objectives of zone

The objectives are:

- (a) to identify land suitable for existing and for future residential development,
- (b) to encourage a variety of housing types and densities compatible with the generally low density residential environment of Moree and Mungindi,
- (c) to provide for development that maintains the character of Moree and Mungindi and is in sympathy with existing development in relation to:
 - (i) setbacks,
 - (ii) building, bulk and scale,
 - (iii) visual amenity,
 - (iv) landscaping,
 - (v) existing service infrastructure, and
 - (vi) land capabilities,
- (d) to promote additions to the range and supply of housing in Moree and Mungindi,
- (e) to improve the level of residential amenity in new development,
- (f) to minimise the adverse impact on local amenity of new development,
- (g) to permit development for non residential purposes in appropriate locations compatible with the character and amenity of surrounding residential areas, and
- (h) to discourage the concentrated development of enclaves of residential flat buildings in favour of a more dispersed location pattern.

2 Without development consent

Development for the purpose of:

dwelling-houses; home occupations.

3 Only with development consent

Development not included in item 2 or 4.

4 Prohibited

Development for the purpose of:

abattoirs; advertising; agricultural machinery showrooms; bulk stores; bus depots; car repair stations; clubs; commercial premises; heliports; hotels; industries (other than home industries); institutions; intensive livestock keeping establishments; junkyards; liquid fuel depots; motor showrooms; public buildings; refreshment rooms; road transport terminals; roadside stalls; sawmills; shops; stock and sale yards; taverns; transport terminals; warehouses.

Zone No 2 (v) (Village Area)

1 Objectives of zone

The objectives are:

- (a) to make provision for certain suitable lands to be used for urban purposes,
- (b) to encourage a range of housing types in appropriate locations,
- (c) to enable development for retail, commercial and service purposes for the local and nearby rural community in appropriate locations within the zone where the scale and type of development is compatible with living areas, and
- (d) to recognise existing villages and to enable future development appropriate to their function.

2 Without development consent

Development for the purpose of:

dwelling-houses.

3 Only with development consent

Development not included in item 2 or 4.

4 Prohibited

Development for the purpose of:

animal boarding breeding or training establishments; extractive industries; institutions; intensive livestock keeping establishments; junk yards; mines; offensive and hazardous industries; sawmills.

Zone No 3 (Business)

1 Objectives of zone

The objectives are:

- (a) to encourage the development and expansion of business activities which will contribute to economic growth and employment opportunities within the area,
- (b) to facilitate the establishment of retail, commercial and professional services to meet the needs of the community and which are compatible with the surrounding environment,
- (c) to maintain and enhance the role of the Moree town centre as the major centre for retail, commercial and professional services for the area and for associated uses,
- (d) to provide office employment in locations close to other town centre facilities including Government offices and community services,
- (e) to provide low intensity retail, commercial and tourist activities on the fringe of the town centre of Moree which will not prejudice the commercial viability of the core retail localities in the town of Moree,
- (f) to provide neighbourhood business centres meeting the day to day needs of surrounding residential precincts,
- (g) to provide non-commercial development where such development is compatible with the commercial character of the locality, and
- (h) to provide carparking to meet the needs of commercial areas, and
- (i) to provide for development that maintains the town character of Moree and Mungindi and is in sympathy with existing development in terms of the following:
 - (i) setbacks

- (ii) building bulk and scale
- (iii) visual amenity
- (iv) heritage significance
- (v) townscape and streetscape character
- (vi) existing service infrastructure
- (vii) land capabilities.

2 Without development consent

Nil.

3 Only with development consent

Development not included in item 4.

4 Prohibited

Development for the purpose of:

abattoirs; animal boarding or training establishments; caravan parks; industries (other than home industries or light industries); institutions; intensive livestock keeping establishments; junk yards; mines; road transport terminals; roadside stalls; sawmills; stock and sale yards.

Zone No 4 (Industrial)

1 Objectives of zone

The objectives are:

- (a) to encourage development of land for the purpose of industry, being land within a convenient distance of Moree and Mungindi and with good access to arterial roads,
- (b) to provide land suitable for industrial uses which contribute to the local economy and do not have undue adverse impact on local amenity,
- (c) to enable other development compatible with or ancillary to the industrial use of the land in this zone,
- (d) to prevent degradation of the urban environment,

- (e) to encourage industrial development of high visual quality along major approach roads to Moree,
- (f) to preserve local amenity where residential development adjoins or is adjacent to industrial land,
- (g) to ensure that adequate infrastructure can be provided to meet the needs of any development, and
- (h) to discourage offensive or hazardous development where it is considered that an adverse environmental impact is likely to occur.

2 Without development consent

Nil.

3 Only with development consent

Development not included in item 4.

4 Prohibited

Development for the purpose of:

boarding houses; caravan parks; commercial premises; dwellings (other than in conjunction with other development granted consent); education establishments; hotels; motels; residential flat buildings; roadside stalls; shops (other than those meeting the convenience needs of the workforce of industrial land); tourist facilities; units for aged persons.

Zone No 5 (Special Uses—Community Purposes)

1 Objectives of zone

The objectives are:

- (a) to identify land used or intended for use for a particular public or community purpose,
- (b) to encourage development within this zone for uses noted on the map,
- (c) to set aside land for future development of land, but which is not yet required for a particular public or community purpose which will reflect surrounding land uses,
- (d) to encourage development which is not detrimental to the amenity of

the locality with regard to noise, dirt, odour or the like.

2 Without development consent

Nil.

3 Only with development consent

Development for the purpose of a building, work, place or land use specified on the map in relation to the land.

4 Prohibited

Development not included in item 3.

Zone No 6 (a) (Public Open Space)

1 Objectives of zone

- (a) to create an attractive urban parkland on the banks of the Mehi River,
- (b) to provide an adequate range of opportunities and facilities for a diversity of informal and casual recreational pursuits, outdoor entertainment and exhibitions, and a variety of organised sports for player and spectator alike,
- (c) to improve the distribution of land available for recreational use and the provision of appropriate facilities on land within the zone,
- (d) to develop a distinct identity for each major piece of open space land,
- (e) to improve the landscape and open space links between each major piece of open space land so as to develop a continuous system of open space throughout the towns,
- (f) to expand the range of recreational uses within public open space but not development primarily for private gain or commercial or retail use more appropriate to other zones,
- (g) to discourage development which is likely to have a detrimental effect on the amenity of the locality or the functioning of the open space, and
- (h) to provide carparking areas which are ancillary to the activities which operate in this zone.

2 Without development consent

Development for the purpose of:

gardening, landscaping and bushfire hazard control (but not the erection of any structures).

3 Only with development consent

Development not included in item 2.

4 Prohibited

Nil.

Zone No 6 (b) (Private Open Space)

1 Objectives of zone

The objectives of this zone are:

- (a) to identify open space within Moree in private ownership,
- (b) to allow land within the zone to be used for sport, recreation and other outdoor activities,
- (c) to ensure the amenity of adjoining land is not adversely affected by the use of land within this zone, and
- (d) to encourage buildings and works which are of a bulk, scale, size, design or have other features which would not be detrimental to the amenity of the locality.

2 Without development consent

Nil.

3 Only with development consent

Any development.

4 Prohibited

Nil.

Zone No 7 (Environmental Protection—Habitat) Zone

1 Objectives of zone

The objectives of this zone are:

- (a) to protect and conserve significant wildlife habitats,
- (b) to restrict development which would destroy or damage the identified habitats,
- (c) to enable development that is compatible with the protection and enhancement of the habitats, and
- (d) to enhance and rehabilitate wildlife habitats.

2 Without development consent

Development for the purpose of:

agriculture (other than ancillary dwellings and intensive livestock keeping establishments) not including clearing of trees or vegetation (other than noxious weeds).

3 Only with development consent

Any development, including development for the purpose of:

bushfire hazard reduction, dwelling-houses; environmental protection works; open space; roads and utility installations.

4 Prohibited

Nil.

Zone No 8 (National Parks and Nature Reserves)

1 Objectives of zone

The objective of this zone is to identify any land included in national parks, nature reserves, Aboriginal areas and state recreation areas.

2 Without development consent

Any development authorised by or under the [National Parks and Wildlife Act 1974](#) or any development ancillary or incidental to any such development.

3 Only with development consent

Nil.

4 Prohibited development

Development not included in item 2.

Part 3 Special provisions

Division 1 Subdivision generally

10 Consent required for subdivision

A person may subdivide land but only with the consent of the council.

Division 2 Provisions relating to rural land

11 General considerations

The council shall not consent to an application to carry out development on land within Zone No 1 (a), 1 (c) or 7 unless it has taken into consideration, if relevant, the guidelines set out in Schedule 2.

12 Subdivision of rural land

The council must not consent to the subdivision of land within Zone 1 (a), 1 (c) or 7 unless it has obtained all relevant information in relation to, and made an assessment of:

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

13 Subdivision generally in Zones Nos 1 (a) and 7

- (1) This clause applies to land within Zone No 1 (a) or 7.
- (2) Subject to this Part, the council may grant consent to the subdivision of land to which this clause applies only if each separate allotment of land to be created by the subdivision has an area of not less than 100 hectares.

14 Subdivision for purpose of agriculture in Zones Nos 1 (a) and 7

- (1) This clause applies to land within Zone No 1 (a) or 7.
- (2) The council may grant consent to the subdivision of land to which this clause applies

to create an allotment of any area if the allotment is used or is to be used for the purpose of agriculture.

- (3) The council must not grant consent to such a subdivision if it will create an allotment that has a dwelling-house on it and the allotment will have an area of less than 100 hectares.
- (4) (Repealed)

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.

15 (Repealed)

16 Subdivision for other purposes in Zones Nos 1 (a) and 7

- (1) This clause applies to land in Zone No 1 (a) or 7.
- (2) The council may grant consent to the subdivision of land to which this clause applies to create an allotment of land of any area to be used for a purpose permissible in the zone (other than agriculture, forestry or a dwelling) if, in the opinion of the council:
 - (a) the area of each allotment to be created by the subdivision is appropriate having regard to the purpose for which it is being created,
 - (b) the purpose for which the allotment is to be used involves the supply of goods or services for which there is a demand in the locality, and
 - (c) the agricultural potential of the land adjoining the allotment will not be unnecessarily reduced.

17 Subdivision in Zone No 1 (c)

- (1) This clause applies to land in Zone No 1 (c).
- (2) The council may grant consent to the subdivision of land to which this clause applies to create allotments of land intended to be used for dwelling-houses only if:
 - (a) except in the case of land at Yarraman or Menadool, each allotment to be created by the subdivision has an area of not less than 2.5 hectares,
 - (b) each allotment to be created by the subdivision has an area of not less than 4,000 square metres, in the case of land at Yarraman, or
 - (c) each allotment to be created by the subdivision has an area of not less than 40 hectares, in the case of land at Menadool.

18 Dwellings in Zones Nos 1 (a) and 7

- (1) This clause applies to land in Zone No 1 (a) or 7.
- (2) The council may grant consent to development for the purpose of a dwelling-house only if:
 - (a) the land on which the dwelling-house is to be erected contains no other dwelling-house, and
 - (b) the land:
 - (i) has an area of 100 hectares, or
 - (ii) comprises an existing holding, or
 - (iii) is an allotment created in accordance with clause 13 (2), or
 - (iv) is an allotment created in accordance with clause 16 (2) and the dwelling-house is an ancillary dwelling.
- (3) This clause does not operate so as to prohibit the erection of a dwelling-house upon an allotment of land within Zone No 1 (a) or 7, where the allotment was in existence on the appointed day.

18A 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.

19 Erection of additional dwellings in Zones Nos 1 (a), 1 (c) and 7

- (1) This clause applies to land within Zone No 1 (a), 1 (c) or 7.
- (2) The council may consent to the erection of not more than one additional dwelling-house or the alteration of an existing dwelling-house to create two dwellings where:
 - (a) a dwelling could be erected on the land in accordance with clause 17 or 18,
 - (b) no additional access to a public road is required from the land,
 - (c) separate ownership of the proposed dwelling could only be achieved by a subdivision of the land, and
 - (d) in the opinion of the council, the proposed dwelling will not interfere substantially

with the primary purpose for which the land is being used.

- (3) The council shall not consent to the subdivision of land on which one additional dwelling is erected in pursuance of this clause except in accordance with this plan.

20 Rural workers' dwellings in Zone No 1 (a)

Nothing in this plan shall prevent a person with the consent of the council from erecting additional dwelling-houses on land which is in Zone No 1 (a) and is not vacant, if:

- (a) it is satisfied that the needs of existing agriculture genuinely require that rural workers reside on the land,
- (b) the additional dwellings are clustered in a location where they will not impair the suitability of the land for agriculture, and
- (c) such rural workers' dwelling-houses are to be used by persons substantially engaged in agricultural employment on that land or nearby land in the same ownership.

Division 3 Provisions relating to residential development

21 Residential development

- (1) In this clause, a reference to the area of an allotment does not, in the case of a hatchet-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 purpose of a dwelling-house on an allotment of land within Zone No 2 (a) or 2 (v) unless:
 - (a) in the case of a hatchet-shaped allotment—the area of the allotment is not less than 500 square metres, or
 - (b) in the case of any other allotment—the area of the allotment is not less than 450 square metres.
- (3) Subclause (2) does not operate so as to prohibit the erection of a dwelling house upon an allotment of land within Zone No 2 (a) or 2 (v) where the allotment was in existence as a separate parcel of land prior to the appointed day.

22 Integrated housing development

- (1) In this clause, ***integrated housing development*** means development that consists of:
 - (a) the subdivision of land into five or more allotments, and
 - (b) the erection of a single dwelling-house on each of the allotments created by that subdivision.

- (2) This clause applies to land in Zone No 2 (a), 2 (v) or 3.
- (3) Integrated housing development may, with the consent of the council, be carried out on an allotment of land to which this clause applies.
- (4) The council shall not grant consent to integrated housing development on an allotment of land to which this clause applies unless it is satisfied that:
 - (a) each proposed allotment will have an area of 232 square metres or more,
 - (b) the development will make adequate provision with respect to the privacy of each proposed dwelling-house,
 - (c) the development will make adequate provision with respect to access to natural light for each proposed dwelling-house,
 - (d) the floor space ratio of each proposed dwelling-house will not exceed 0.5:1, and
 - (e) adequate arrangements can be made for the provision of water, sewerage and drainage services for each proposed dwelling-house.

23 Residential flat buildings

- (1) This clause applies to land within Zone No 2 (a), 2 (v) or 3.
- (2) Subject to subclause (3), the council may grant consent to the carrying out of development on land to which this clause applies for the purpose of a residential flat building only if the proposed building has a height of not more than 8 metres above natural ground level and the land is connected to, or capable of being connected to, a reticulated sewerage system.
- (3) The council may grant consent to the carrying out of development on land to which this plan applies for the purpose of a residential flat building which exceeds 8 metres in height above natural ground level, where the council is satisfied that:
 - (a) the proposed building will not unreasonably overshadow or overlook land on which a dwelling-house is or is capable of being erected, and
 - (b) the proposed building is in reasonable proportion with existing buildings in the immediate vicinity, and
 - (c) the land is connected to, or is capable of being connected to, a reticulated sewerage system.

24 Dual occupancy

- (1) This clause applies to land within Zone No 2 (a), 2 (v), 3 or 4 on which a dwelling-house may be erected.

- (2) A person may, with the consent of the council:
- (a) alter or add to a dwelling-house so as to create 2 dwellings on the same allotment, or
 - (b) erect a building containing 2 dwellings on one allotment,
 - (c) erect two dwelling-houses on the same allotment.
- (3) Except as otherwise provided by this clause, the council shall not grant any such consent unless:
- (a) the area of the allotment is not less than the minimum area (if any) prescribed in this plan for the erection of a dwelling-house on the land, and
 - (b) in the case of land within Zone No 2 (a) or 2 (v), 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.
- (4) The area occupied by a garage or carport shall not be taken into account when calculating floor space ratios for the purpose of subclause (3) (b).
- (5) In the case of land within Zone No 2 (a) or 2 (v), the council may grant consent to the erection of an additional dwelling which is not physically attached to an existing dwelling, only where it is satisfied that:
- (a) the needs of the occupants of the land would be better satisfied by such an arrangement, and
 - (b) both dwellings are erected on the same allotment of land.
- (6) The provisions of this plan relating to residential flat buildings do not apply to a building altered or added to or proposed to be altered or added to pursuant to this clause.

Division 4 Heritage provisions

25 Aims in relation to heritage

The aims of this plan in relation to heritage are:

- (a) to conserve the environmental heritage of the area of Moree Plains, and

- (b) to integrate heritage conservation into the planning and development control processes, and
- (c) to provide for public involvement in the conservation of environmental heritage, and
- (d) to ensure that any development does not adversely affect the heritage significance of heritage items and heritage conservation areas and their settings.

26 Protection of heritage items and heritage conservation areas

- (1) The following development may be carried out only with development consent:
 - (a) demolishing, defacing or damaging a heritage item or a building, work, relic, tree or place within a heritage conservation area, or
 - (b) altering a heritage item or a building, work or relic within a heritage conservation area by making structural changes to its exterior, or
 - (c) altering a heritage item or a building, work or relic within a heritage conservation area by making non-structural changes to the detail, fabric, finish or appearance of its exterior, except changes resulting from any maintenance necessary for its ongoing protective care which does not adversely affect its heritage significance, or
 - (d) moving a relic that is a heritage item, or a relic (whether or not it is a heritage item) that is within a heritage conservation area, or excavating land for the purpose of discovering or moving any such relic, or
 - (e) erecting a building on, or subdividing, land on which a heritage item is located or which is within a heritage conservation area.
- (2) Development consent is not required by this clause if the consent authority is of the opinion that the proposed development would not adversely affect the heritage significance of the heritage item or heritage conservation area.
- (3) When determining a development application required by this clause, the consent authority must take into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area.

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*).

- (4) The council may refuse to grant consent to a development application required by this clause unless it has considered a conservation plan so as to enable the consent authority to fully consider the heritage significance of the item and the impact of the proposed development on the significance of the item and its setting.

- (5) When considering applications for consent to the erection of a building within a heritage conservation area, the consent authority must make an assessment of:
- (a) the pitch and form of the roof, if any, and
 - (b) the style, size, proportion and position of the openings for windows or doors, if any, and
 - (c) whether the colour, texture, style, size and type of finish of the materials to be used on the exterior of the building are compatible with those of the materials used in existing buildings within the heritage conservation area.

27 Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites

The consent authority must take into consideration the likely effect of the proposed development on the heritage significance of a heritage item, heritage conservation area, archaeological site or potential archaeological site, and on its setting, when determining an application for consent to carry out development on land in its vicinity.

28 Notice of certain heritage development applications

Sections 84, 85, 86, 87 (1) and 90 of the Act (which provides for the giving of notice, and for the making and consideration of submissions, about proposed development) apply to the demolishing, defacing or damaging of a heritage item or a building, work, relic, tree or place within a heritage conservation area (and to the use of a building or land referred to in clause 31 for a purpose which, but for that clause, would be prohibited by this plan) in the same way as those provisions apply to designated development.

29 (Repealed)

30 Development of known or potential archaeological sites

- (1) The consent authority may grant consent to the carrying out of development on an archaeological site that has Aboriginal heritage significance (such as a site that is the location of an Aboriginal place or a relic, within the meaning of the *National Parks and Wildlife Act 1974*) or a potential archaeological site that is reasonably likely to have Aboriginal heritage significance only if:
- (a) it has considered an assessment of how the proposed development would affect the conservation of the site and any relic known or reasonably likely to be located at the site prepared in accordance with any guidelines for the time being notified to it by the Director-General of National Parks and Wildlife, and
 - (b) except where the proposed development is integrated development, has notified the local Aboriginal communities (in such a way as it thinks appropriate) of the development application and taken into consideration any comments received in response within 21 days after the notice was sent, and

(c) it is satisfied that any necessary consent or permission under the *National Parks and Wildlife Act 1974* has been granted.

(2) The consent authority may grant consent to the carrying out of development on an archaeological site that has non-Aboriginal heritage significance or a potential archaeological site that is reasonably likely to have non-Aboriginal heritage significance only if:

(a) it has considered an assessment of how the proposed development would affect the conservation of the site and any relic known or reasonably likely to be located at the site prepared in accordance with any guidelines for the time being notified to it by the Heritage Council, and

(b) (Repealed)

(c) it is satisfied that any unnecessary excavation permit required by the *Heritage Act 1977* has been granted.

31 Conservation incentives

(1) The consent authority may grant consent to the use, for any purpose, of a building that is a heritage item or is within a heritage conservation area, of the land on which the building is erected, even though the use would otherwise be prohibited by this plan, if it is satisfied that:

(a) the proposed use would not adversely affect the heritage significance of the item or heritage conservation area or the amenity of the heritage conservation area, and

(b) the conservation of the building depends on the granting of the consent.

(2) When considering an application for consent to erect a building on land on which a heritage item is located or on land within a heritage conservation area, the consent authority may, for the purpose of determining:

(a) the floor space ratio, and

(b) the number of parking spaces to be provided on the site,

exclude the floor space of the building from its calculation of the floor space of the buildings erected on the land, but only if the consent authority is satisfied that the conservation of the building depends on it making the exclusion.

Division 5 General

32 Development along arterial roads

The council shall not consent to the carrying out of development on land which has frontage to an arterial road, unless:

- (a) access to that land is provided by a road other than the arterial road, wherever practicable, and
- (b) in the opinion of the council, the safety and efficiency of the arterial road will not be adversely affected by:
 - (i) the design of the access to the proposed development,
 - (ii) the emission of smoke or dust from the proposed development, and
 - (iii) the nature, volume or frequency of vehicles using the arterial road to gain access to the site of the proposed development.

33 Access

A person, other than the council, shall not construct a road which has access to a public road except with the consent of the council.

34 Community use of school facilities and sites

- (1) This clause applies to any land on which development for the purposes of schools, colleges or other educational establishments may be carried out.
- (2) Notwithstanding any other provision of this plan, the council may consent to:
 - (a) the community use of the facilities and sites of schools, colleges or other educational establishments,
 - (b) the commercial operation of those facilities and sites, and
 - (c) the carrying out of development for community purposes on land used for the purposes of schools, colleges or other educational establishments, whether or not the development is ancillary to any such purpose.

34A Development on railway land

Development for the purposes of roads or utility installations (or both) may, with the consent of the council, be carried out on land within Zone No 5 if the land use specified on the map in relation to the land is "railways".

35 Development in Zone No 6 (a)

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.

36 Services

- (1) A person shall not carry out development on land (other than land within Zone No 1 (a), 1 (c) or 2 (v)) until arrangements satisfactory to the council have been made for connection to a water supply, drainage and sewerage system.
- (2) A person shall not carry out development on land within Zone No 1 (a), 1 (c) or 2 (v) until arrangements satisfactory to the council have been made for the provision of a water supply and facilities for the removal or disposal of sewage and drainage from that land, or until arrangements satisfactory to the council have been made for the installation of a water supply system and a septic tank for sewage disposal on the land.
- (3) The council shall not consent to the subdivision of land (other than land within Zone No 1 (a), 1 (c) and 2 (v)) unless arrangements satisfactory to the council have been made for the connection of each allotment to be created by the subdivision to a water supply, sewerage and drainage system.

37 Land subject to bushfire hazards

The council shall not consent to the subdivision of land or to the erection of a building on land which is, in the opinion of council, subject to bushfire hazards unless the council is satisfied that:

- (a) adequate provision has been or will be made for access for fire fighting vehicles,
- (b) adequate safeguards have been or will be adopted in the form of fire breaks, reserves and fire radiation zones, and
- (c) adequate water supplies will be available for fire fighting purposes.

38 Advertisement of certain applications

- (1) 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:
 - (a) development for the purpose of rural small holdings within Zone No 1 (c),
 - (b) development for the purpose of a residential flat building,
 - (c) development for the purpose of an industry within Zone No 1 (a),
 - (d) development for non-residential purposes within Zone No 2 (a) or 2 (v),
 - (e) development for the purpose of a dual occupancy referred to in clause 24, and
 - (f) development for any purpose (other than designated development) that the

council determines should require advertisement,
in the same way as those provisions apply to and in respect of designated development.

- (2) Nothing in subclause (1) requires the documents accompanying a development application to be made available for inspection at any office other than the office of the council.

39 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 3 for a purpose specified in that Schedule in relation to that land, 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.

40 Acquisition of reserved lands

- (1) The owner of any land reserved for local road widening may, by notice in writing, require the council to acquire that land.
- (2) On receipt of a notice referred to in subclause (1), the council shall acquire the land.
- (3) Until the land referred to in subclause (1) is acquired by the public authority concerned, development for any purpose may, with the consent of the council, be carried out on that land.

41 Classification and reclassification of public land as operational land

The public land described in Schedule 4 is classified, or reclassified, as operational land for the purposes of the [Local Government Act 1993](#).

42 Development of land in the vicinity of Moree Airport

- (1) The council must not consent to the erection of a building on land which is shown on the OLS Map, unless it is satisfied that the height of the building will not exceed the limitation specified for the land on that map.
- (2) Despite subclause (1), the council may consent to the erection of a building on land which is shown on the OLS Map that will exceed the limitation specified for the land on that map, but only if:
 - (a) the application for that consent has been referred by the council to Airservices Australia for comment, and

(b) the council has taken into account any comment furnished by Airservices Australia within 28 days after that referral.

(3) The council may grant consent to the erection of a building intended for human occupation on Lot 5, DP 817286 only if it is satisfied that measures will be taken:

(a) which comply with the provisions of Australian Standard AS 2021—2000, *Acoustics—Aircraft noise intrusion—Building siting and construction* published by Standards Australia, and

(b) which are adequate for the insulation of the building from aircraft noise.

(4) In this clause, **OLS Map** means the map marked “*Obstacle Limitation Surface (OLS) Map for Moree and environs*” deposited in the office of the council.

Schedule 1 Heritage items

(Clause 5 (1))

- 1 “Alloway” Dwelling-house—13 Gwydir Street, Moree, Lots 4/5, DP 22759
- 2 Courthouse—48 Frome Street, Moree, Moree Courthouse Reserve 11241
- 3 Kirkby Park Bandstand—Frome Street, Moree, Reserve 72084 Dedicated for Public Recreation
- 4 Lands Board Office—40 Frome Street, Moree, Reserve 1362
- 5 Memorial Hall—36 Balo Street, Moree, Lots 1/2 & CL RD, Section 52
- 6 “Midkin” Homestead—Garah Road, 23 kilometres north of Moree, Parish Medgun
- 7 Moree Club—57 Frome Street, Moree, Cor Lots 1/2, DP 3404
- 8 Moree Technical College—30–38 Frome Street, Moree, Lot 15, DP 10786
- 9 Moree Plains Gallery (former bank)—25 Frome Street, Moree, Lot 1, DP 741470
- 10 Old Toomelah Cemetery—21 kilometres east of Boomi, Parish of Willimill
- 11 All Saints Church—53 Albert Street, Moree, Cor Lot 12, Portion 46
- 12 All Saints Rectory—99 Boston Street, Moree, Lot 11, Section 46
- 13 7 Chester Street, Moree, Lots 1/2, DP 629349
- 14 “Combadello” Homestead—Collarenabri Road, Moree, Parish of Combadello
- 15 “Heslington” Homestead—Terry Hie Hie, Parish of Campbell
- 16 Imperial Hotel—113 Balo Street, Moree, Lot 7, Section 44, DP 547308
- 17 Lygon House—13 Chester Street, Moree, Lot 10, Section 43

- 18 Old Terry Hie Hie Cemetery—5 Kilometres south of Terry Hie Hie, Old Terry Hie Hie Crossing, Parish of Campbell
- 19 Permewans Store—103 Balo Street, Moree, Lot 1, DP 625339
- 20 Pitt Son Crane and Co. Ltd.—37 Frome Street, Moree, Lot 1, DP 710643
- 21 Regan Family Burials on “Myall Arms”—Berrygill, Parish of Pringle
- 22 Showground Pavilion—Moree Showground, Warialda Street, Moree, Portion 231
- 23 “Terlings”—45 kilometres north of Moree on Boggabilla Road, Parish of Mount Pleasant
- 24 Three Shops and Attached Residence—75 Heber Street, cnr of Auburn Street, Moree, Cor Part Lot 12, Section 50
- 25 Victoria Hotel—339 Gosport Street, Moree, Part Lot 12, Section 25
- 26 “Wee Bolla Bolla” Original Kitchen Block—8 kilometres south-east of Moree, Parish of Wee Bulla Bulla
- 27 Westpac Bank—29 Frome Street, Moree, Lot 1, DP 710559
- 28 House—47 Auburn Street, Part Lot 9, Section 45
- 29 Three Joined Shops—43-47 Frome Street, Moree Parts of Lot 10, Section 43

Schedule 2 Development guidelines

(Clause 11)

- 1 Development should be generally compatible with the suitability and capability of the land on which it is carried out.
- 2 Development should not materially reduce the agricultural production potential of the land on which it is to be carried out or of adjoining land.
- 3 Development should not take place on land that is likely to be affected by flooding, soil erosion, geological or mining hazards, landslip or instability, unless it is sited and designed to minimise any risk.
- 4 Development should not take place on land containing items of heritage significance or subject to mining hazards, landslip or instability, unless it is sited and designed to minimise any risk.
- 5 Development should not take place on land of mineral or extractive resource potential or in areas where such development would compromise the potential for recovering mineral or extractive resources. Timber and forest products are taken to be an extractive resource for the purposes of this item.
- 6 Development should be located and designed so as not to detract from the rural or scenic character of the locality.
- 7 The design of subdivisions and the location of building sites should have regard to:

- (a) the retention and possible extension of native vegetation areas and natural habitats, and
- (b) views of the land from nearby roads and public places and the need to minimise the intrusiveness of development, and
- (c) the need to prevent soil erosion and sedimentation caused by clearing land and uncontrolled flows of water across land, and
- (d) the need for flood-free sites for buildings and for stock during floods, and
- (e) the need to locate allotments and building sites so as to minimise the risk of damage by bushfires, and
- (f) the need for works, including perimeter roads or fire trails, to reduce bushfire hazards, and
- (g) the need to maintain the rural character of the area, including the prevention of buildings intruding into the skyline when viewed from roads or other public places, and
- (h) the siting of buildings, having regard to the location of adjoining buildings and the need to prevent an overconcentration of buildings inappropriate for the locality, and
- (i) access arrangements and the need to prevent direct access from allotments to arterial roads.

8 Development should not take place unless consideration has been given to the nature of bushfire hazard in the locality and, where the land is in a locality that is subject to bushfire risk, an investigation has been undertaken into appropriate means of reducing that hazard, including:

- (a) the location of building sites on each allotment of a proposed subdivision in the area of least risk, and
- (b) the need for and impact of a perimeter road or fire trail around any proposed subdivision, and
- (c) the provision of a water supply adequate for fire fighting services, and
- (d) the means of access for fire fighting vehicles, and
- (e) the need for fire radiation zones and their impact on the lot layout of any proposed subdivision, and
- (f) the need for fireproof building materials, and
- (g) the availability of fire fighting equipment,

and appropriate means are available to ensure that fire protection measures, including fire radiation zones and hazard reduction, are maintained.

9 Buildings should not be erected unless they can be adequately and economically served by:

- (a) facilities on the land for the disposal of sewage and domestic wastes and for the supply of water for domestic, fire fighting and gardening purposes, and
- (b) electricity, telephone, postal and garbage disposal services, and

(c) adequate all-weather access to urban service centres.

- 10 Development should not take place where it creates a demand for an unreasonable or uneconomic provision or extension of public services whether by the council or by any other public authority.
- 11 Development should not take place where it is likely to lead to an increase in run-off into local streams or increased pollution levels in local streams, or pollution of or any other adverse impact on subterranean water resources.
- 12 Development should not prejudice the intended use, function and management of travelling stock reserves, particularly by increasing vehicular access to such a reserve.
- 13 Development should not create or worsen a condition of ribbon development on any main or arterial road, in relation to visual impact, traffic hazards associated with vehicular access points, or potential disruption to traffic flow on the road.

Schedule 3 Development for certain additional purposes

(Clause 39)

Lot 5, DP 202287, Parish of Moree, County of Courallie—subdivision, but only if each allotment created has an area of not less than 6 hectares.

Portion 25, Parish of Merriwa, Toomelah Road near Boggabilla—Aboriginal purposes.

Land being Lot 109, DP 395710, Greenbah Road, Moree—subdivision to create 2 allotments for the development of dwelling-houses and an allotment consisting of the residue of the land.

Lot 281, DP 751780, 19 Mungindi Road, Moree—subdivision to create 3 allotments, and the erection of one dwelling-house on each of the 2 vacant allotments so created.

Lots 13 and 14, DP 811932, 118 Gwydir Street, Moree—commercial premises.

Lot 496, DP 751780, 393 Frome Street, Moree—advertising.

Schedule 4 Classification and reclassification of public land as operational land

(Clause 41)

Moree

Auburn Street	Lots 3 and 4, Section 51.
Blueberry Road	Lot 10, DP 848790 (known as the Moree Bureau of Meteorology).
Moree Airport	Lot 5, DP 817286, Lots 9 and 11, DP 848790, Lots 35–37, DP 867485, Lot 6, DP 746093, Lots 18–23, DP 831597, Lots 11–14, DP 792348, Lots 3–5, DP 700552, Lots 8 and 10, DP 787334, Lot 16, DP 827137, Lot 33, DP 865099 and Lots 30 and 31, DP 856873.