

# Lachlan Local Environmental Plan 1991

[1991-502]



New South Wales

## Status Information

### Currency of version

Historical version for 16 January 2009 to 23 December 2010 (accessed 29 December 2024 at 10:19)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

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

### Authorisation

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

File last modified 16 January 2009

# Lachlan Local Environmental Plan 1991



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 .....	4
4 Relationship to other environmental planning instruments .....	5
5 Interpretation .....	5
6 Adoption of model provisions .....	8
7 Consent authority .....	8
<b>Part 2 General restrictions on development of land</b> .....	8
8 Zones indicated on the map .....	8
9 Zone objectives and development controls .....	8
<b>Part 3 Special provisions</b> .....	12
10 General considerations for development within rural zones.....	12
11 Subdivision of land generally.....	12
12 Subdivision for the purposes of agriculture in Zone No 1 (a).....	13
13 Subdivision for the purposes of intensive agriculture in Zone No 1 (a) .....	13
14 Subdivision for the purposes of dwellings in Zone No 1 (a).....	13
15 Subdivision for other purposes in Zone No 1 (a) .....	13
16 Boundary adjustments .....	14
17 Subdivision for the purposes of dwellings in Zone No 1 (c) .....	14
18 Dwellings in Zone No 1 (a) .....	14
19 Erection of an additional dwelling.....	15

20 Applications that must be advertised .....	15
21 Development along arterial roads .....	16
22 Environmentally sensitive land.....	17
23 Flood liable land .....	18
24 Land subject to bushfire hazards.....	18
25 Items of the environmental heritage .....	18
26 Development in the vicinity of an item of the environmental heritage .....	19
27 (Repealed) .....	19
28 Conservation incentives relating to heritage items .....	19
29 Access .....	19
30 Classification and reclassification of public land.....	20
31A Exempt and complying development.....	20
<b>Schedule 1 Items of the environmental heritage.....</b>	<b>21</b>
<b>Schedule 2 Development which must be advertised .....</b>	<b>22</b>
<b>Schedule 3 Classification and reclassification of public land.....</b>	<b>22</b>

# Lachlan Local Environmental Plan 1991



New South Wales

## Part 1 Preliminary

### 1 Name of plan

This plan may be cited as *Lachlan Local Environmental Plan 1991*.

### 2 Aims, objectives etc

The general aims of this plan are:

- (a) to encourage the proper management, development and conservation of natural and man-made resources within the Shire by protecting or conserving:
  - (i) prime crop and pasture land,
  - (ii) timber, mineral, soil, water and other natural resources,
  - (iii) areas of significance for nature conservation,
  - (iv) areas of high scenic value, and
  - (v) places and buildings of archaeological or heritage significance to the Shire, including aboriginal relics and places, and
- (b) to replace the planning controls in force immediately before the appointed day with a single local environmental plan to help facilitate growth and development of the Shire in a manner which is consistent with the objectives specified in paragraph (a) and which:
  - (i) minimises the cost to the community of fragmented and isolated development of rural land,
  - (ii) facilitates the efficient and effective delivery of services and facilities, and
  - (iii) facilitates a range of residential opportunities in accordance with demand.

### 3 Land to which plan applies

This plan applies to all land within the Shire of Lachlan as shown on the map, with the

boundaries as indicated on the map.

#### 4 Relationship to other environmental planning instruments

*Interim Development Order No 1—Municipality of Condobolin* and such other deemed environmental planning instruments and local environmental plans as, immediately before the appointed day, applied to the land to which this plan applies, are, to the extent that they so applied, repealed.

#### 5 Interpretation

(1) In this plan:

**appointed day** means the day on which this plan takes effect.

**arterial road** means:

- (a) Main Road 57S—West Wyalong Road,
- (b) Main Road 377—Lachlan Valley Way, Forbes to Condobolin,
- (c) Main Road 61E—Parkes Road,
- (d) Main Road 57N—Tottenham Road,
- (e) Main Road 347—Melrose to Dandaloo Road,
- (f) Main Road 61N—Cobar Road,
- (g) Main Road 230—Lachlan Valley Way, Condobolin to Lake Cargelligo,
- (h) Main Road 411—Euabalong to Main Road 230,
- (i) Main Road 423—Lake Cargelligo to Euabalong Road,
- (j) Main Road 501—Lachlan Valley Way, Lake Cargelligo to Hillston,
- (k) Main Road 371—Lake Cargelligo to Rankin Springs, and
- (l) Main Road 231—Lake Cargelligo to West Wyalong Road.

**caravan park** means land used as sites for movable dwellings, including tents and caravans or other vehicles used for temporary accommodation and includes any kiosk or other similar facility situated on the land.

**community land** has the same meaning as in the [Local Government Act 1993](#).

**Council** means the Lachlan Shire Council.

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

**existing holding** means:

- (a) except as provided by paragraph (b)—the area of a lot, portion or parcel of land as it was at the appointed day, or
- (b) where, as at the appointed day, a person owned 2 or more adjoining or adjacent lots, portions, or parcels of land, the aggregation of the area of those lots, portions or parcels as they were at the appointed day.

**flood liable land** means land shown diagonally hatched with black lines on the map.

**intensive agriculture** means market gardening, mushroom growing, fruit growing, flower growing, intensive field cropping, and intensive livestock keeping, not including the growing of lucerne, improved pastures, wheat, oats, barley or other cereal crops, whether irrigated or not.

**intensive livestock keeping** means a building or place in which or on 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,
- (d) animal boarding or training establishments, and
- (e) similar buildings or places,

but does not include the keeping of livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of the building or place.

**item of the environmental heritage** means those buildings, works or relics or places of historic, scientific, cultural, social, architectural, archaeological, natural or aesthetic significance to the Shire of Lachlan described in Schedule 1.

**operational land** has the same meaning as in the [Local Government Act 1993](#).

**Prime crop and Pasture Land** means land within an area, identified on a map prepared by or on behalf of the Director-General of the Department of Agriculture and Fisheries, deposited in an office of that Department and a copy of which is deposited in the office of the Council, 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 the Department of Agriculture and Fisheries has notified the Council in writing is not prime crop and pasture land for the purposes of this plan.

**public land** has the same meaning as in the *Local Government Act 1993*.

**Note—**

The term is defined as follows:

**public land** means any land (including a public reserve) vested in or under the control of the council, but does not include:

- (a) a public road, or
- (b) land to which the *Crown Lands Act 1989* applies, or
- (c) a common, or
- (d) land subject to the *Trustees of Schools of Arts Enabling Act 1902*, or
- (e) a regional park under the *National Parks and Wildlife Act 1974*.

**recreation area** means:

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

but does not include a racecourse or a showground.

**relic** means any deposit, object or material evidence relating to the settlement (including aboriginal habitation) prior to January 1900 of the Shire of Lachlan.

**renovation**, in relation to a building or work, means:

- (a) the making of structural changes to the inside or outside of the building or work, or
- (b) the making of non-structural changes to the fabric or appearance of the outside of the building or work (which changes may include the repair, or the painting, plastering or other decoration, of the outside of the building).

**the map** means the series of maps marked "*Lachlan Local Environmental Plan*", as amended by the maps (or, if any sheets of the maps are specified, by the specified sheets of the maps) marked as follows:

**Editorial note—**

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

*Lachlan Local Environmental Plan 1991 (Amendment No 2)*

*Lachlan Local Environmental Plan 1991 (Amendment No 5)*

(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 are provided for guidance and do not form part of this plan.

## **6 Adoption of model provisions**

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

- (a) the definition of **map** in clause 4 (1), and
- (b) clause 29,

are adopted for the purposes of this plan.

## **7 Consent authority**

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

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

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

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

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

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

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

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

### **9 Zone objectives and development controls**

(1) The objectives of a zone are set out in the Table to this clause under the heading



“Objectives of zone” appearing in the matter relating to the zone.

(2) Except as otherwise provided by this plan, in relation to land within a zone specified in the Table to this clause, the purposes (if any) for which:

- (a) development may be carried out without development consent,
- (b) development may be carried out only with development consent, and
- (c) development is prohibited,

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

(3) Except as otherwise provided by this plan, the Council 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 Agricultural Zone)**

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

The objectives of this zone are:

- (a) to allow development for purposes that are:
  - (i) appropriate in a rural location, and
  - (ii) sympathetic with the environmental characteristics of the land and the costs of providing public services and amenities,
- (b) to promote the efficient and effective use of agricultural land (particularly prime crop and pasture land) in a manner which sustains its agricultural potential,
- (c) to facilitate farm adjustment,
- (d) to conserve prime crop and pasture land by ensuring that:
  - (i) it is not unnecessarily converted to non-agricultural purposes, and
  - (ii) any allotment created for intensive agricultural purposes is potentially and physically capable, on its own, of sustaining a range of such purposes or some other agricultural operation suitable to the locality.

(e) to protect and conserve:

- (i) soil suitability by controlling development in accordance with soil capability,
- (ii) forests of existing and potential commercial value for timber production,
- (iii) 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,
- (iv) trees and other vegetation in environmentally sensitive areas where the conservation of the vegetation is likely to reduce land degradation,
- (v) water resources for use in the public interest,
- (vi) areas of significance for nature conservation, including areas with rare plants, wetlands and significant habitat, and
- (vii) places and buildings of archaeological or heritage significance and aboriginal relics and places, and

(f) to minimise the cost to the community of:

- (i) fragmented and isolated development of rural land, and
- (ii) providing, extending and maintaining public infrastructure and services.

## **2 Without development consent**

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

## **3 Only with development consent**

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

## **4 Prohibited**

Boarding-houses; motor showrooms; residential flat buildings; shops.

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

### **1 Objectives of zone**

The objective of this zone is to identify land suitable for rural residential or hobby farm development, and other purposes which are unlikely to adversely affect land or development in the vicinity.

### **2 Without development consent**

Agriculture (other than ancillary dwellings).

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

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

### **4 Prohibited**

Boarding houses; commercial premises; intensive livestock keeping; motor showrooms; residential flat buildings; shops.

## **Zone No 1 (f) (Forests)**

### **1 Objectives of zone**

The objectives of this zone are:

- (a) to identify State forests within the meaning of the [Forestry Act 1916](#), and
- (b) to preserve those existing forests within the Shire of Lachlan.

### **2 Without development consent**

Any purpose authorised under the [Forestry Act 1916](#).

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

Nil.

### **4 Prohibited**

Any purpose other than a purpose included in Item 2.

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

### **1 Objectives of zone**

The objectives of this zone are to identify existing towns and villages and to allow their future development in a manner which is compatible with their function.

## **2 Without development consent**

Nil.

## **3 Only with development consent**

Any purpose other than a purpose included in Item 4.

## **4 Prohibited**

Extractive industries; intensive livestock keeping; mines; offensive or hazardous industries.

# **Part 3 Special provisions**

## **10 General considerations for development within rural zones**

- (1) The Council shall not consent to an application to carry out development on land within Zone No 1 (a) or 1 (c) unless it has made an assessment, where relevant, of the effect of the carrying out of that development on:
  - (a) the present and potential use of the land for the purposes of agriculture,
  - (b) vegetation, timber production, land capability (including soil resources and soil stability), water resources (including the quality and stability of water courses and ground water storage and riparian rights),
  - (c) the future recovery of known or prospective areas of valuable deposits of minerals, sand, gravel or other extractive materials,
  - (d) the protection of areas of significance for nature conservation or of high scenic value, places and buildings of archaeological or heritage significance and aboriginal relics and places,
  - (e) the cost of providing, extending and maintaining public infrastructure and services for the development, and
  - (f) future expansion of settlements in the vicinity.
- (2) In assessing the effect referred to in subclause (1) the Council shall have regard not only to the land the subject of the application but also to land in the vicinity of that land.

## **11 Subdivision of land generally**

- (1) A person shall not subdivide land to which this plan applies except with the consent of the Council.
- (2) The Council shall not consent to an application to subdivide land within Zone No 1 (a)

or 1 (c) unless it has obtained all relevant information in relation to, and made an assessment of:

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

#### **12 Subdivision for the purposes of agriculture in Zone No 1 (a)**

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 to be used primarily for the purposes of agriculture (other than intensive agriculture) unless each allotment created for that purpose is, in the opinion of the Council, physically capable of sustaining agricultural food or fibre production of a form common in the area.

#### **13 Subdivision for the purposes of intensive agriculture in Zone No 1 (a)**

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 to be used primarily for the purposes of intensive agriculture, unless in the opinion of the Council:

- (a) each allotment created for that purpose is physically capable of sustaining a range of intensive agricultural uses, and
- (b) an adequate water supply is available to service the proposed intensive agricultural use.

#### **14 Subdivision for the purposes of dwellings in Zone No 1 (a)**

(1) The Council shall not consent to an application to subdivide land within Zone No 1 (a) for the purpose of a dwelling where, in the opinion of the Council:

- (a) an allotment will be created which comprises prime crop and pasture land,
- (b) the creation of the allotment is likely to adversely affect the existing or potential capability of the land the subject of the application to produce food or fibre, or
- (c) the proposed allotment could adversely affect the use of adjoining land for the purposes of agriculture.

(2) (Repealed)

#### **15 Subdivision for other purposes in Zone No 1 (a)**

(1) Subject to subclause (2), 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 to be used primarily for purposes other than agriculture or a dwelling, unless in the opinion of the Council:

- (a) the land does not comprise any prime crop and pasture land or any land that is or could be used for a form of agriculture common in the area, and
- (b) the area of each allotment to be created by the subdivision is appropriate having regard to the purpose for which it is being created.

(2) The Council may grant consent to an application to subdivide land within Zone No 1 (a) to create an allotment to be used for a purpose other than agriculture or a dwelling where, in the opinion of the Council:

- (a) 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,
- (b) no other land in the locality could reasonably be used for that purpose, and
- (c) the level of demand for the goods or services which are to be supplied from the allotment and the extent to which that allotment is proposed to be used to meet that demand justifies the creation of the allotment notwithstanding its agricultural value.

## **16 Boundary adjustments**

Nothing in this plan prevents the subdivision, with the consent of Council, of land within Zone No 1 (a) or 1 (c) on which a dwelling-house lawfully stands if the subdivision is for the purpose of altering the boundaries of the allotment and no additional allotments are created by the subdivision.

## **17 Subdivision for the purposes of dwellings in Zone No 1 (c)**

The Council shall not grant consent to the subdivision of land within Zone No 1 (c) unless it has made an assessment of:

- (a) the land capacity, natural constraints and hazards of the land to be subdivided in relation to the size and design of the allotments proposed to be created,
- (b) the desirability of providing a range and mixture of allotment sizes, and
- (c) whether the design of each allotment to be created by the subdivision is satisfactory for the economic provision of services and the physical suitability for on-site disposal of wastes.

## **18 Dwellings in Zone No 1 (a)**

(1) Subject to subclause (2), a person shall not erect a dwelling on vacant land within Zone No 1 (a) unless:

- (a) the land comprises:
  - (i) an existing holding,
  - (ii) an allotment created in accordance with this plan, a State environmental planning policy or a regional environmental plan, or
  - (iii) an allotment created in accordance with a consent granted before the appointed day, being an allotment on which a dwelling could lawfully have been erected immediately before the appointed day.
- (2) The Council may consent to the erection of a dwelling on land within Zone No 1 (a) where:
  - (a) the dwelling is ancillary to the use of the land for another purpose, 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.

## **19 Erection of an additional dwelling**

- (1) The Council may consent to the erection of an additional dwelling on land within Zone No 1 (a) or 1 (c) (including the alteration of an existing dwelling to create 2 dwellings) where:
  - (a) in the case of land within Zone No 1 (a) a dwelling could be erected on the land in accordance with clause 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 dwelling to be erected on that land will not interfere with the purpose for which the land is being used.
- (2) 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 Applications that must be advertised**

The provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of development for the purposes specified in Schedule 2 in the same way as those provisions apply to and in respect of designated development.

## **21 Development along arterial roads**

- (1) The Council shall not grant consent to an application to carry out development on land which has frontage to an arterial road, unless, in the opinion of the Council:
  - (a) access to that land is provided by a road other than the arterial road, wherever practicable, and
  - (b) the safety and efficiency of the arterial road will not be adversely affected by:
    - (i) the design of the access to the proposed development,
    - (ii) the emission of smoke or dust from the proposed development, or
    - (iii) the nature, volume or frequency of vehicles using the arterial road to gain access to the proposed development.
  
- (2) The Council shall not consent to the development of land within Zone No 1 (a) or 1 (c) for:
  - (a) bulk stores,
  - (b) caravan parks,
  - (c) car repair stations,
  - (d) commercial premises,
  - (e) hotels,
  - (f) industries (other than home or rural industries),
  - (g) junk yards,
  - (h) mines,
  - (i) motels,
  - (j) places of public assembly,
  - (k) recreation facilities,
  - (l) refreshment rooms,
  - (m) retail plant nurseries,
  - (n) roadside stalls,
  - (o) sawmills,
  - (p) service stations,



(q) stock and sales yards,

(r) transport terminals (other than bus stations), or

(s) warehouses,

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

## **22 Environmentally sensitive land**

- (1) A person shall not carry out development on land which is shown on the map as being environmentally sensitive land, for the purpose of:
  - (a) intensive livestock keeping,
  - (b) junk yards,
  - (c) liquid fuel depots,
  - (d) offensive or hazardous industries,
  - (e) sawmills, or
  - (f) stock and sales yards.
- (2) A person shall not, except with the consent of the Council, cause the destruction of trees on land shown on the map as environmentally sensitive land.
- (3) The Council shall not consent to an application for consent to destroy trees as referred to in subclause (2) unless, in the opinion of the Council, the destruction of trees on the land will be carried out in a manner which, in respect of that land and the land in its immediate vicinity, minimises:
  - (a) the risk of soil erosion or other land degradation,
  - (b) the loss of scenic amenity, and
  - (c) the loss of important vegetation systems and natural wildlife habitats.
- (4) Subclause (2) shall not apply to the destruction of trees for:
  - (a) erecting or maintaining fence lines,
  - (b) reducing bush fire hazards,
  - (c) the cutting down or removal of selected timber for farm purposes such as fencing or firewood, or

- (d) complying with any law.

### **23 Flood liable land**

- (1) A person shall not erect a building or carry out work for any purpose on flood liable land or on land within a floodway, except with the consent of the Council.
- (2) The Council shall not grant consent to the erection of a building or the carrying out of a work on land within a floodway if, in the opinion of the Council, the erection of the building or the carrying out of the work is likely:
  - (a) to impede the flow of flood waters on that land or land in its immediate vicinity,
  - (b) to imperil the safety of persons on that land or land in its immediate vicinity in the event of those lands being inundated with flood waters,
  - (c) to aggravate the consequences of flood waters flowing on that land or land in its immediate vicinity with regard to erosion, siltation and the destruction of vegetation, or
  - (d) to have an adverse effect on the water table of that land or of land in its immediate vicinity.

### **24 Land subject to bushfire hazards**

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

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

### **25 Items of the environmental heritage**

- (1) A person shall not, in respect of a building, work, relic or place that is an item of the environmental heritage:
  - (a) demolish, renovate or extend that building or work,
  - (b) damage or despoil that relic or place or any part of that relic or place,
  - (c) excavate any land for the purpose of exposing or removing that relic,
  - (d) erect a building on the land on which the building or work or relic is situated or the land which comprises that place, or
  - (e) subdivide the land on which that building, work or relic is situated or the land which comprises that place,

except with the consent of the Council.

- (2) The Council shall not grant consent to a development application made in pursuance of subclause (1) unless it has made an assessment of:
- (a) the significance of the item as an item of the environmental heritage of the Shire of Lachlan,
  - (b) the extent to which the carrying out of the development in accordance with the consent would affect the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the item or its site,
  - (c) whether the setting of the item and, in particular, whether any stylistic, horticultural or archaeological features of the setting should be retained, and
  - (d) whether the item constitutes a danger to the users or occupiers of that item or to the public.

**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 an item of the environmental heritage**

The Council shall not grant consent to a development application to carry out development in the vicinity of an item of the environmental heritage unless it has made an assessment of the effect which the carrying out of that development will have on the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the item of the environmental heritage and its setting.

**27 (Repealed)**

**28 Conservation incentives relating to heritage items**

Nothing in this plan prevents the Council from granting consent to the use for any purpose of a building that is an item of the environmental heritage or of the land on which that building is erected where, in the opinion of the Council:

- (a) the use would have little or no adverse effect on the amenity of the area, and
- (b) conservation of the building depends on the Council granting consent in pursuance of this Clause.

**29 Access**

A person (other than the Council) shall not construct a road which has access to an existing public road, except with the consent of the Council.

### **30 Classification and reclassification of public land**

- (1) The objective of this clause is to enable the Council to classify or reclassify public land as “operational land” or “community land” in accordance with Part 2 of Chapter 6 of the *Local Government Act 1993*.

**Note—**

Under the *Local Government Act 1993*, “public land” is generally land vested in or under the control of a council (other than roads, Crown reserves and commons). The classification or reclassification of public land may also be made by a resolution of the Council under section 31, 32 or 33 of the *Local Government Act 1993*. Section 30 of that Act enables this Plan to discharge trusts on which public reserves are held if the land is reclassified under this Plan as operational land.

- (2) The public land described in Part 1 or Part 2 of Schedule 3 is classified, or reclassified, as operational land for the purposes of the *Local Government Act 1993*.
- (3) The public land described in Part 3 of Schedule 3 is classified, or reclassified, as community land for the purposes of the *Local Government Act 1993*.
- (4) The public land described in Part 1 of Schedule 3:
  - (a) does not cease to be a public reserve to the extent (if any) that it is a public reserve, and
  - (b) continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants that affected the land before its classification, or reclassification, as operational land.
- (5) The public land described in Part 2 of Schedule 3, to the extent (if any) that it is a public reserve, ceases to be a public reserve when the description of the land is inserted into that Part and is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except:
  - (a) those (if any) specified for the land in Column 3 of Part 2 of Schedule 3, and
  - (b) any reservations that except land out of the Crown grant relating to the land, and
  - (c) reservations of minerals (within the meaning of the *Crown Lands Act 1989*).

**Note—**

In accordance with section 30 (2) of the *Local Government Act 1993*, the approval of the Governor to subclause (5) applying to the public land concerned is required before the description of the land is inserted in Part 2 of Schedule 3.

### **31A Exempt and complying development**

What is exempt and complying development?

- (1) Development of minimal environmental impact listed as exempt development in

*Lachlan Shire Council Development Control Plan—Exempt and Complying Development* as adopted by the Council on 17 November 1999 is **exempt development**, despite any other provisions of this plan.

- (2) Development listed as complying development in *Lachlan Shire Council Development Control Plan—Exempt and Complying Development* as adopted by the Council on 17 November 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 *Lachlan Shire Council Development Control Plan—Exempt and Complying Development* as adopted by the Council on 17 November 1999.
- (4) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in *Lachlan Shire Council Development Control Plan—Exempt and Complying Development* as adopted by the Council on 17 November 1999, as in force when the certificate is issued.

## **Schedule 1 Items of the environmental heritage**

(Clause 5)

- 1 All Saints Parish Church, Condobolin
- 2 Community Centre (formerly Commercial Hotel), Condobolin
- 3 Court House, Condobolin
- 4 Post Office, Condobolin
- 5 Water Tower, Condobolin
- 6 Goodwill and Manse
- 7 Melrose Homestead
- 8 Cadow Homestead
- 9 Woggon Nature Reserve
- 10 Bogandillon Swamp
- 11 Goobothery Hill Site (NPWS Site No 42-3-5)
- 12 Tollingo Mallee

- 13 Royal Mail Hotel, Lake Cargelligo
- 14 National Australia Bank, Lake Cargelligo
- 15 State Bank, Lake Cargelligo
- 16 Louisiana Carved Tree, Fifield (NPWS Site No 35-4-8)
- 17 Mineral Hill Carved Tree, Mineral Hill (NPWS Site No 34-6-1)

## Schedule 2 Development which must be advertised

(Clause 20)

- 1 The demolition of a building or work that is an item of the environmental heritage, not being a partial demolition which in the opinion of the Council, is of a minor nature and does not adversely affect the significance of the building or work as part of the environmental heritage of the Shire of Lachlan.
- 2 Boarding houses; hotels; motels; residential flat buildings.
- 3 Industries in Zone No 1 (a) or in Zone No 2 (v) other than rural industries.
- 4 Junk yards; liquid fuel depots; saw-mills; stock and sale yards.
- 5 Subdivision of land so as to create more than 3 allotments for the purpose of erecting a dwelling on each allotment, where the allotments to be created each have an area of less than 20 hectares.

## Schedule 3 Classification and reclassification of public land

(Clause 30)

### Part 1 Land classified, or reclassified, as operational land—no interests changed

Column 1	Column 2
Locality	Description

### Part 2 Land classified, or reclassified, as operational land—interests changed

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged
Condobolin	Lot 1, Section 6, DP 119131, Cunningham Street	Nil

### **Part 3 Land classified, or reclassified, as community land**

**Column 1**

**Locality**

**Column 2**

**Description**