

Coonabarabran Local Environmental Plan 1990 (1991 EPI 32)

[1991-32]



New South Wales

Status Information

Currency of version

Historical version for 19 March 2010 to 22 November 2012 (accessed 23 November 2024 at 10:07)

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

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File last modified 19 March 2010

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New South Wales

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Coonabarabran Local Environmental Plan 1990 (1991 EPI 32)



New South Wales

Part 1 Preliminary

1 Name of plan

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

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 of Coonabarabran by protecting, enhancing or conserving:
 - (i) prime crop and pasture land,
 - (ii) timber, minerals, soil, water and other natural resources,
 - (iii) areas of significance for nature conservation,
 - (iv) areas of high scenic or recreational value,
 - (v) places and buildings or archaeological or heritage significance, including aboriginal relics and places, and
 - (vi) clean air and dark night skies, and
- (b) to replace the existing planning controls with a single local environmental plan to help facilitate growth and development of the Shire of Coonabarabran in a manner which is consistent with the aims 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 amenities and services,
 - (iii) facilitates a range of residential and employment opportunities in accordance

with demand,

- (iv) facilitates farm adjustments,
- (v) ensures that the efficiency of arterial roads is not adversely affected by development on adjacent land,
- (vi) promotes both urban and rural development,
- (vii) provides for orderly development of tourist activities, and
- (viii) minimises the amount of toxic chemicals and intractable wastes.

3 Land to which plan applies

This plan applies to all land within the Shire of Coonabarabran as shown on the map, with the boundaries as indicated on the map.

4 Relationship to other environmental planning instruments

- (1) *Interim Development Order No 15—Coonabarabran* and such local environmental plans and other deemed environmental planning instruments as, immediately before the appointed day, applied to the land to which this plan applies, are repealed.
- (2) To the extent to which the provisions of this plan are inconsistent with the provisions of *Orana Regional Environmental Plan No 1—Siding Spring*, the provisions of the *Orana Regional Environmental Plan No 1—Siding Spring* shall prevail.

5 Definitions

- (1) In this plan:

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

- (a) the making of structural changes to the outside of the heritage items, building or work, or
- (b) the making of non-structural changes to the detail, fabric, finish or appearance of the outside of the heritage item, building or work, not including the maintenance of the existing detail, fabric, finish or appearance of the outside of the heritage item, building or work.

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

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

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

lines.

caravan park means land used as a site for movable dwellings, including tents and caravans or other vehicles used for temporary or permanent accommodation.

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

Council means the Warrumbungle Shire Council (formerly known as the Coonabarabran Shire Council).

Crown-timber lands has the same meaning as in the [Forestry Act 1916](#).

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

environmentally sensitive land means land shown horizontally hatched with black lines on the map and includes all lands within 60 metres of a river.

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 of land, the aggregation of those lots, portions or parcels as they were as at that day.

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

heritage item means a building, work, relic, tree or place of heritage significance to the Shire of Coonabarabran:

- (a) indicated on the map in a distinctive manner, and
- (b) described in Schedule 1.

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 generality of the foregoing, includes:

- (a) feed lots,
- (b) piggeries,
- (c) poultry farms, and

(d) fish farming (including crustaceans and oysters),

but does not include an animal boarding or training establishment or land used for the keeping of livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of the land.

maintenance means the continuous protective care of the fabric of a heritage item and its setting.

natural conservation area means an area of natural, ecological, scientific or aesthetic local heritage significance to the Shire of Coonabarabran:

(a) described in Schedule 2, or

(b) as indicated on the map in a distinctive manner or shown bounded by black dotted edging and indicated “Natural Conservation Area” on the map.

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

protected land means land within, or within 20 metres of the bed or banks of, any river or lake.

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, or

(c) an area used to provide facilities for recreational activities which promote the physical, cultural, or intellectual welfare of persons within the community, being facilities provided by:

(i) 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 (terrestrial or underwater) relating to the use or settlement of the area of the Shire of Coonabarabran which is 50 or more years old,

river includes any stream of water, whether perennial or intermittent, flowing in a natural channel or in a natural channel artificially improved, or in any artificial channel which has changed the course of the stream of water and any affluent, confluent, branch or other stream into or from which the river flows, and in the case of a river running to the sea or into any coastal bay or inlet or into a coastal lake, includes the estuary of such river and any arm or branch of it and any part of the river influenced by tidal waters.

the map means the set of maps marked "*Shire of Coonabarabran Local Environmental Plan 1990*", 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.

Coonabarabran Local Environmental Plan 1990 (Amendment No 2)

tree includes a sapling, shrub or scrub.

wetland means land shown on the map by parallel broken lines within a natural conservation area.

- (2) In this plan, a reference to the destruction of a tree is a reference to the ringbarking, cutting down, felling, poisoning, topping, lopping, removing or otherwise destroying or injuring a tree.
- (3) 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 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, and

(c) a reference to a map is a reference to a map deposited in the office of the Council.

(4) 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 definition of **map** in clause 4 (1), and

(b) clauses 15 and 29,

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 *Coonabarabran Local Environmental Plan 1990*”.

7 Consent authority

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

Part 2 General restrictions on development

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—Large Holdings—edged heavy black and lettered “1 (a)”.

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

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

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

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

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

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

Zone No 8 (a) National Parks, Nature Reserves, State Recreation Areas and Other Lands Dedicated or Reserved under the National Parks and Wildlife Act—edged heavy black and lettered “8 (a)”.

Zone No 9 Special Uses—Reservations—Local Road—Alternative Heavy Vehicle Route—Limited Access—edged heavy black and lettered “9”.

9 Zone objectives and development control table

- (1) The objectives of a zone are set out in the Table to this clause under the heading “Objectives of zone” appearing in the matter relating to the zone.
- (2) Except as otherwise provided by this plan, in relation to land within a zone specified in the Table to this clause, the purposes (if any) for which:
 - (a) development may be carried out without development consent,
 - (b) development may be carried out only with development consent,
 - (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—Large Holdings

1 Objectives of zone

The objectives of this zone are to promote the proper management and utilisation of resources by:

- (a) protecting, enhancing and conserving:
 - (i) agricultural and pastoral land in a manner which sustains its efficient and effective agricultural production potential,
 - (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, coal, petroleum 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 areas 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 including groundwater for use in the public interest,
 - (vii) areas of significance for nature conservation including areas with rare plants, wetlands and significant habitat, and
 - (viii) places and buildings of archaeological or heritage significance, including the protection of Aboriginal relics and places,
- (b) preventing the unjustified development of prime crop and pasture land for purposes other than agriculture,
 - (c) ensuring that any allotment created for intensive agricultural purposes is potentially and physically capable, on its own, of sustaining a range of those purposes or other agricultural purposes as a commercial agricultural operation suitable to the locality,
 - (d) facilitating farm adjustments,
 - (e) 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,
 - (f) providing land for future urban development, for rural-residential development and for development, for other non-agricultural purposes, in accordance with the need for that development, and
 - (g) enabling the continuation of traditional forms of rural land use and occupation.

2 Without development consent

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

3 Only with development consent

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

4 Prohibited

Motor showrooms; offensive or hazardous industries; residential flat buildings, shops (other than general stores not exceeding 100 square metres in gross floor area).

Zone No 1 (b) Rural General

1 Objectives of zone

The objectives of this zone are to promote the proper management and utilisation of resources by:

- (a) protecting, enhancing and conserving:
 - (i) agricultural and pastoral land in a manner which sustains its efficient and effective agricultural production potential,
 - (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, coal, petroleum 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 areas 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 including groundwater for use in the public interest,
 - (vii) areas of significance for nature conservation including areas with rare plants, wetlands and significant habitat, and
 - (viii) places and buildings of archaeological or heritage significance, including the protection of Aboriginal relics and places,
- (b) preventing the unjustified development of prime crop and pasture land for purposes other than agriculture,
- (c) ensuring that any allotment created for intensive agricultural purposes is potentially and physically capable, on its own, of sustaining a range of those purposes or other agricultural purposes as a commercial

agricultural operation suitable to the locality,

- (d) facilitating farm adjustments,
- (e) 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,
- (f) providing land for small rural holding development and for development, for other non-agricultural purposes, in accordance with the need for that development, and
- (g) enabling the continuation of traditional forms of rural land use and occupation.

2 Without development consent

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

3 Only with development consent

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

4 Prohibited

Motor showrooms; residential flat buildings; shops (other than general stores not exceeding 100 square metres in gross floor area).

Zone No 1 (c) Rural Small Holdings

1 Objectives of zone

The objectives of this zone are to promote development of land:

- (a) identified as suitable for:
 - (i) rural residential or hobby farm development, or
 - (ii) a range of industrial, storage or intensive livestock keeping, vineyard or orchard purposes which are compatible with the environmental capabilities of the land and which are unlikely to adversely affect land, or water resources (including groundwater) or development in the vicinity, and

(b) to provide for the creation of small holdings to allow an attractive rural lifestyle on land that lacks commercial agricultural potential.

2 Without development consent

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

3 Only with development consent

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

4 Prohibited

Boarding houses; commercial premises; hotels; motor showrooms; offensive or hazardous industries; refreshment rooms; residential flat buildings; shops (other than general stores not exceeding 100 square metres in gross floor area).

Zone No 1 (f) Rural (Forests) Zone

1 Objectives of zone

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

2 Without development consent

Agriculture (other than intensive livestock keeping establishments); forestry.

3 Only with development consent

Mining or extractive industries.

4 Prohibited

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

Zone No 2 (v) Village or Urban

1 Objectives of zone

The objective of this zone is to promote development in existing towns and villages in a manner which is compatible with their urban 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 establishments; mines; offensive and hazardous industries.

Zone No 4 General Industrial

1 Objectives of zone

The objectives of this zone are:

- (a) to encourage the establishment of industries and related activities outside areas used or zoned for residential or business purposes by setting aside land where a broad range of industrial purposes may be permitted, and
- (b) to enable minor convenience retail services to cater for the incidental shopping and business needs of the labour force within the zone.

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose included in item 4.

4 Prohibited

Boarding-houses; caravan parks; dwelling-houses (other than those used in conjunction with industry); hospitals; institutions; motels; places of assembly; residential flat buildings; shops (other than general stores not exceeding 100 metres in gross floor area).

Zone No 6 (a) Open Space

1 Objectives of zone

The objectives are:

- (a) to set aside land that is used or is capable of being used for active or passive recreation purposes and conservation purposes,
- (b) to enable the development of land for recreational and conservation purposes which will not detrimentally affect the amenity of surrounding areas, and
- (c) to enable development of land for purposes associated with, or ancillary to, recreational and environmental pursuits and which will not detrimentally affect the amenity of the surrounding areas, and the future use of the land for recreational and environmental purposes.

2 Without development consent

Works for the purpose of recreational pursuits and bushfire hazard control (but not the erection of any associated structures).

3 Only with development consent

Buildings for the purpose of recreational pursuits, landscaping, gardening, bushfire hazard control; utility installations.

4 Prohibited

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

Zone No 8 (a) National parks, nature reserves, State recreation areas and other lands dedicated or reserved under the National Parks and Wildlife Act.

1 Objectives of zone

The objectives are:

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

2 Without development consent

Development permissible under the [National Parks and Wildlife Act 1974](#).

3 Only with development consent

Nil.

4 Prohibited

Any purpose other than a purpose included in item 2.

Zone No 9 Special Uses—Reservations—Local Road—Alternative Heavy Vehicle Route—Limited Access

1 Objectives of zone

The objective is to set aside land for the purposes of bypassing heavy vehicles away from the Coonabarabran Township's residential and commercial areas.

2 Without development consent

Nil.

3 Only with development consent

Road and bridge works.

4 Prohibited

Any purpose other than a purpose included in item 3.

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), 1 (b) or 1 (c) unless it has taken into consideration, if relevant, the effect of the carrying out of that development on:
 - (a) the present use of the land, the potential use of the land for the purposes of agriculture and the potential of any land which is prime crop and pasture land for sustained agricultural production,
 - (b) vegetation, timber production, land capability (including soil resources and soil stability) and 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, coal, petroleum, sand, gravel or other extractive materials,
 - (d) the protection of areas of significance for nature conservation or of high scenic or recreational value, and places and buildings of archaeological or heritage significance including Aboriginal relics and places,

- (e) the cost of providing, extending and maintaining public amenities and services to the development, and
 - (f) future expansion of settlements in the locality.
- (2) In addition to the matters referred to in subclause (1), the Council shall take into consideration the relationship of the development to development on adjoining land or on other land in the locality.
- (3) Subclause (1) does not apply to the development, being:
- (a) an addition to a building or work,
 - (b) development ancillary to a purpose for which development may be carried out with the consent of the Council under this plan, or
 - (c) the erection of a dwelling-house on an allotment of land created in accordance with this plan for the purpose of a dwelling.

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), 1 (b) 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)

- (1) Subject to subclause (2), the Council may consent to the creation of an allotment within Zone No 1 (a) (of any area) if the Council is satisfied it is intended to be used for the purposes of agriculture.
- (2) The Council shall not consent to the creation of an allotment within Zone No 1 (a) if the Council is satisfied that it is intended to be used for the purposes of agriculture, the allotment has an area of less than 500 hectares and there is a dwelling on the allotment.
- (3) Notwithstanding subclause (2), the Council may consent to the creation of one, but

not more than one, but not more than one allotment that the Council is satisfied is intended to be used for the purpose of agriculture from an existing holding within Zone No 1 (a) on which a dwelling stands if that dwelling was lawfully erected on the land on or before the appointed day.

Note—

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

13 (Repealed)

14 Subdivision for other purposes in Zone No 1 (a)

- (1) The Council shall not consent to an application to subdivide land within Zone No 1 (a) if any allotment to be created by the subdivision is, in the opinion of the Council, intended to be used primarily for purposes other than agriculture or a dwelling unless, in the opinion of the Council:
 - (a) none of the land the subject of the application is prime crop and pasture land, 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) Nothing in subclause (1) prevents the Council granting consent to an application to subdivide land within Zone No 1 (a) to create an allotment that, in the opinion of the Council, is intended to be used for a purpose other than agriculture or a dwelling if the Council is satisfied that:
 - (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,
 - (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.

15 Subdivision for the purposes of agriculture in Zone No 1 (b)

- (1) Subject to subclause (2), the Council may consent to the creation of an allotment within Zone No 1 (b) of any area if the Council is satisfied it is intended to be used for the purposes of agriculture.
- (2) The Council shall not consent to the creation of an allotment within Zone No 1 (b) if the Council is satisfied it is intended to be used for the purposes of agriculture, the allotment has an area of less than 40 hectares and there is a dwelling on the allotment.

- (3) Notwithstanding subclause (2), the Council may consent to the creation of one, but not more than one allotment that the Council is satisfied is intended to be used for the purpose of agriculture from an existing holding within Zone No 1 (b) on which a dwelling stands if that dwelling was lawfully erected on the land on or before the appointed day.

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.

16 (Repealed)

17 Subdivision for other purposes in Zone No 1 (b)

- (1) The Council shall not consent to an application to subdivide land within Zone No 1 (b) if any allotment to be created by the subdivision is, in the opinion of the Council, intended to be used primarily for purposes other than agriculture or a dwelling, unless, in the opinion of the Council:
- (a) none of the land the subject of the application is prime crop and pasture land, 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) Nothing in subclause (1) prevents the Council from granting consent to an application to subdivide land within Zone No 1 (b) to create an allotment that, in the opinion of the Council, is intended to be used for a purpose other than agriculture or a dwelling if the Council is satisfied that:
- (a) the purpose 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.

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

- (1) The Council shall not consent to an application to subdivide land within Zone No 1 (c) so as to create an allotment that the Council is satisfied is intended to be used primarily for the purpose of a dwelling unless the allotment has an area of 1 hectare or more.
- (2) The Council shall not grant consent to the subdivision of land as referred to in subclause (1) unless it has taken into consideration:

- (a) the land capability (including soil resources and soil stability), natural constraints and hazards of the land to be subdivided in relation to the density of the allotments proposed to be created,
 - (b) the desirability of providing a range and mixture of allotment sizes, and
 - (c) whether the design of each allotment to be created by the subdivision is satisfactory for the economic provision of services and is physically suitable for on-site disposal of wastes.
- (3) The Council shall not consent to an application to erect a dwelling-house on vacant land within Zone No 1 (c) unless it is set back at least 100 metres from the boundary of any adjoining farm.

19 Dwellings in Zone No 1 (a)

- (1) Subject to subclause (2), a person shall not erect a dwelling-house on vacant land within Zone No 1 (a) unless:
- (a) the land has an area of 500 hectares or more,
 - (b) the land comprises:
 - (i) an existing holding,
 - (ii) an allotment created under this plan that the Council is satisfied was created for a purpose other than agriculture, or
 - (iii) an allotment created in accordance with a consent granted before the appointed day, being an allotment on which a dwelling could have been erected immediately before the appointed day, or
 - (c) the dwelling-house is ancillary to the agricultural use of the land and is set back at least 150 metres from the boundary of any adjoining farm.
- (2) The Council may consent to the erection of a dwelling-house on land within Zone No 1 (a) if:
- (a) the dwelling-house 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 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 purpose.
- (3) In this clause, ***vacant land*** means land on which no dwelling is erected.

20 Dwellings in Zone No 1 (b)

- (1) Subject to subclause (2), a person shall not erect a dwelling-house on vacant land within Zone No 1 (b) unless the land:
 - (a) has an area of 40 hectares or more,
 - (b) comprises:
 - (i) an existing holding,
 - (ii) an allotment that the Council is satisfied was created for a purpose other than agriculture in accordance with this plan, or
 - (iii) an allotment created in accordance with a consent granted before the appointed day, being an allotment on which a dwelling-house could have been lawfully erected immediately before the appointed day, or
 - (c) the dwelling-house is ancillary to the agricultural use of the land and is set back at least 150 metres from the boundary of any adjoining farm.
- (2) The Council may consent to the erection of a dwelling-house on land within Zone No 1 (b) if:
 - (a) the dwelling-house 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 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 purpose.
- (3) In this clause, ***vacant land*** means land on which no dwelling is erected.

20A 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.

21 Erection of additional dwellings in Zones Nos 1 (a), 1 (b), and 1 (c)

- (1) The Council may consent to the erect of not more than 2 additional dwelling-houses

on land within Zone No 1 (a), 1 (b), or 1 (c) where:

- (a) a dwelling could be erected on the land in accordance with clause 19 or 20 and the land is within Zone No 1 (a) or 1 (b),
 - (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,
 - (d) in the opinion of the Council, the dwelling to be erected on the land will not interfere with the purpose of which the land is being used, and
 - (e) the land is not prime crop and pasture land.
- (2) The Council shall not consent to the subdivision of land on which an additional dwelling is erected in pursuance of this clause except in accordance with this plan.
- (3) Not more than a total of 2 dwelling-houses may be erected or otherwise created pursuant to this clause on any particular land.
- (4) For the purposes of this clause, the alteration of an existing dwelling-house so as to create 2 dwellings is taken to result in the creation of one additional dwelling-house.

22 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 3 in the same way as those provisions apply to and in respect of designated development.

23 Development along arterial roads

- (1) The Council shall not consent to an application to carry out 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, or
 - (iii) the nature, volume or frequency of vehicles using the arterial road to gain access to the proposed development.
- (2) Despite subclause (1), the Council shall not consent to the development of land within Zone No 1 (a), 1 (b) or 1 (c) for any purpose listed in Schedule 4 if the development of

the land for the purpose will have direct access to:

- (a) an arterial road, or
- (b) a road connecting an arterial road, and the access to that road is within 90 metres (measured along the road alignment of the connecting road) of the alignment of the arterial road.

24 Environmentally sensitive land

- (1) A person shall not carry out development on environmentally sensitive land for the purposes of:
 - (a) intensive livestock keeping,
 - (b) junk yards,
 - (c) liquid fuel depots,
 - (d) offensive or hazardous industries,
 - (e) sawmills,
 - (f) stock or sales yards,
 - (g) vineyards, or
 - (h) orchards.
- (2) A person shall not, except with the consent of the Council, cause the destruction of trees on:
 - (a) more than one hectare of environmentally sensitive land of an existing holding, or
 - (b) more than 5 per cent of the area of an existing holding, where that 5 percent comprises environmentally sensitive land,whichever is less.
- (3) The Council shall not consent to an application made for the purposes of 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 adjacent land, minimises:
 - (a) the risk of soil erosion or other land degradation,
 - (b) the loss of scenic amenity,
 - (c) the loss of important vegetation systems and natural wildlife habitats, and
 - (d) surface water or groundwater pollution.

25 Flood liable land

- (1) A person shall not erect a building or carry out a work for any purpose on flood liable land 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 flood liable land or on land within a floodway if, in the opinion of the Council, the carrying out of the development is likely:
 - (a) to impede the flow of flood waters on that land or adjacent land,
 - (b) to imperil the safety of persons on that land or adjacent land in the event of those lands being inundated with flood waters,
 - (c) to aggravate the consequences of flood waters flowing on that land or adjacent land 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 adjacent land.

26 Land subject to bushfire hazard

The Council shall not grant consent to the subdivision of land or to 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 on any adjacent land unless, in the opinion of the Council:

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

27 Heritage items

- (1) A person shall not, in respect of a heritage item:
 - (a) demolish or alter the building or work,
 - (b) damage or move the relic,
 - (c) excavate for the purpose of exposing the relic,
 - (d) damage or despoil the place or tree,
 - (e) erect a building on or subdivide land on which the building, work or relic is situated or that comprises the place, or
 - (f) damage any tree on land on which the building, work or relic is situated or on the land which comprises the place,except with the consent of the Council.

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

Note—

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

28 Development in the vicinity of heritage items

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

29 Heritage advertisements

- (1) Except as provided by subclause (2):

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

(i) the demolition of a building or work that is a heritage item, and

(ii) the use of building on land referred to in clause 30 for a purpose which, but for that clause would be prohibited under this plan,

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

(b) (Repealed)

- (2) Subclause (1) does not apply to the partial demolition of a heritage item or a building or work within a natural conservation area if, in the opinion of the Council, the partial demolition will be of a minor nature and will not adversely affect the heritage significance of the heritage item, building or work in relation to the environmental heritage of the Shire of Coonabarabran.

30 Conservation incentives

- (1) Nothing in this plan prevents the Council from granting consent to an application to the use, for any purpose of a building that this a heritage item or the land on which the building is erected if it is satisfied that:

(a) the proposed use would have little or no adverse effect on the amenity of the area, and

(b) the conservation of the building depends on the Council granting consent under

this clause.

- (2) When considering an application to erect a building on land on which there is situated a building which is a heritage item, the Council may:
 - (a) for the purposes of determining the floor space ratio, and
 - (b) for the purposes of determining the number of parking spaces to be provided on the site,

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

31 Natural conservation areas

- (1) A person shall not, in respect of a natural conservation area:
 - (a) destroy a tree, shrub or grass of a species specified in Schedule 5 within that area, or
 - (b) destroy, clear or remove a habitat of a protected faunal species within that area,
 - (c) erect a building within that area, or
 - (d) clear, drain or fill a wetland or construct a levee on a wetland within that area,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 extent of which the carrying out of development in accordance with the consent would affect the scientific, natural, aesthetic or ecological significance of the natural conservation area, or
 - (b) whether a refusal to grant consent would constitute a danger to the users or occupiers of that land or the public.

32 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.

33 Development along rivers—riparian land

- (1) Notwithstanding any other provision of this plan, a person shall not:
 - (a) on land within 60 metres of any bank of a river, erect a building for any purpose,
 - (b) on land within 60 metres of any bank of a river, cause the destruction of any tree,

- (c) on land within 20 metres of any bank of a river, carry out development for any purpose, or
- (d) on land comprising the bed or any of a river, carry out development for the purposes of:
 - (i) a canal,
 - (ii) a marina (including pontoons, jetties, piers or other similar structures) designed to provide mooring or dry storage for one or more vessels used for any purpose, or
 - (iii) filling or extraction,

except with the consent of the Council.

(2) The Council shall not consent to an application to erect a building on land comprising:

- (a) a bed of a river, or
- (b) land within Zone No 1 (a), 1 (b) or 1 (c) and being within 60 metres of any bank of a river,

unless, in the opinion of the Council, the building:

- (c) is ancillary to the use of that land for the purposes of a recreation area, or
- (d) is to be used for the purposes of fisheries, irrigation works (including the pumping and treatment of water for private domestic consumption), marinas, utility installations, or the servicing of vessels or sea planes.

(3) The Council shall not consent to an application made in accordance with subclause (1) unless, in the opinion of the Council, the destruction of the trees or the development of the land, including subdivision of the land, will be carried out in a manner which, in respect of that land and the adjacent land, minimises:

- (a) the risk of soil erosion and other land degradation,
- (b) the loss of scenic amenity,
- (c) the loss of important vegetation systems and natural wildlife habitats, including fish habitats,
- (d) surface water or groundwater pollution, and
- (e) detrimental effects on the flow of floodwaters on that land or adjacent land.

34 Forestry

(1) This clause applies to land within a State Forest, timber reserve or other Crown

timber-lands within the meaning of the *Forestry Act 1916*.

- (2) Notwithstanding the provisions of clause 9, development may be carried out on land to which this clause applies without development consent:
 - (a) by the Forestry Commission, if the development is authorised under the *Forestry Act 1916*, or
 - (b) by any person if the development is authorised by an authority, lease or licence granted or issued by the Forestry Commission under that Act.

35 Advertising structures

- (1) A person shall not, except with the consent of the Council, erect an advertising structure on land to which this plan applies.
- (2) the Council shall not consent to the erection of an advertising structure unless:
 - (a) the advertisement on or to be placed on the structure indicates or is to indicate the purpose for which the premises on the land are to be used or, in the case of land within Zone No 1 (a), 1 (b) or 1 (c), the advertising structure is to be used for the purposes of displaying an advertisement, indicating the location of tourist facilities and places of scientific, cultural, historic or scenic interest, and
 - (b) the Council is satisfied that the advertising structure will not interfere with the amenity of the area.

36 Development of land on adjoining properties

- (1) This clause applies to land within:
 - (a) 200 metres of the boundary between Zone No 1 (a) and 1 (b),
 - (b) 200 metres of the boundary between Zone No 1 (a) and 1 (c),
 - (c) 200 metres of the boundary between Zone No 1 (b) and 1 (c), or
 - (d) 20 metres of the boundary between any of the following zones:
 - Zone No 1 (c)
 - Zone No 2 (v)
 - Zone No 4
- (2) Subject to subclause (3), development may, with the consent of the Council, be carried out on land to which this clause applies for any purpose for which development may be carried out on land in any adjoining zone.
- (3) The Council shall not consent to the carrying out of development referred to in

subclause (2) unless, in the opinion of the Council, the carrying out of the development is desirable due to physical characteristics, design, ownership, servicing or similar requirements relating to the optimum development of land to which this clause applies and is in accordance with the provisions of this plan applying to the adjacent zone.

37 Acquisition and development of land reserved for roads

- (1) The owner of any land within Zone No 9 may, by notice in writing, require the Council to acquire the land.
- (2) On receipt of such a notice, the Council must acquire the land if:
 - (a) the land is vacant, or
 - (b) the land is not vacant but:
 - (i) the land is included in a 5 year works programme of the Council current at the time of the receipt of the notice,
 - (ii) the Council has decided not to grant consent under subclause (3) to the carrying out of development on the land,
 - (iii) the Council is of the opinion that the owner of the land will suffer hardship if the land is not acquired within a reasonable time, but the Council is not required to acquire the land if it might reasonably be required to be dedicated for a public road.
- (3) A person may, with the consent of the Council, carry out development on land within Zone No 9:
 - (a) for a purpose for which development may be carried out on land in an adjoining zone, or
 - (b) for any other purpose which is compatible with development which may be carried out on land in an adjoining zone, or
 - (c) for any purpose of a temporary nature.
- (4) In deciding whether to grant consent to proposed development under this clause, the Council must take the following matters into consideration:
 - (a) the need to carry out development on the land for the purpose for which the land is reserved,
 - (b) the imminence of acquisition, and
 - (c) the likely additional cost to the Council resulting from the carrying out of the proposed development.

- (5) Land acquired under this clause may be development with the consent of the Council, for any purpose, until such time as it is required for the purpose for which it was acquired.

38 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 6 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 6 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 6:
 - (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 6, 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 6, 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 6.

Schedule 1 Heritage items

(Clause 5 (1))

Burra Bee Dee Aboriginal Mission Cemetery. Located 14 km northeast of Coonabarabran within Burra Bee Dee Reserve. Coonabarabran Land District Portion No 255, Freehold Aboriginal Lands Trust.

Courthouse (Coonabarabran). John Street, Coonabarabran.

Clock Tower (Coonabarabran)—Intersection of John Street and Dalgarno Street, Coonabarabran.

Box Ridge Inn Site—Located on Box Ridge Road—21 km south east of Coonabarabran.

Flags Inn Site—Located on Main Road No 55—14 km south of Bomera.

Schedule 2 Natural conservation areas

(Clause 5 (1))

Chalk Mountain Area. Approximately 113 Ha, located 4 km west of Dugaldie and defined as the area enclosed by a circle of radius 600 metres centred at Australian Map Grid Point:

8735—“Coonabarabran” 973545. Freehold Land (Part of Kooringle Property). The quarries are leased (Private lands and mining leases) by Minerals Ltd, Alexandrina.

Burra Bee Dee Reserve. Forked Mountain Reserve. Approximately 100 Ha, located 14 km north east of Coonabarabran. Portion No 255, Parish Coonabarabran, County Gowen, Freehold Lands Trust.

Scabby Rock and Environs—Approximately 40 hectares, located south of 2 km mark on Salaks Road and approximately 14 km north of Coonabarabran—freehold.

Mow Rock and Environs—approximately 10 hectares, located on Mow Rock Road, 4 km east of MR 396, and 24 km south east of Coonabarabran—Crown Land and freehold.

Schedule 3 Development which must be advertised

(Clause 22)

The demolition of a building or work that is a heritage item, or is within a natural conservation area, 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 Coonabarabran.

Boarding houses; hotels/motels, and residential flat buildings.

Industries other than rural industries, in Zone No 1 (a), 1 (b), 1 (c) or 2 (v).

Intensive livestock keeping; junk yards; liquid fuel depots; sawmills; stock and sales yards; vineyards; orchards.

Schedule 4

(Clause 23)

Bulk stores

Car repair stations
Caravan parks
Clubs
Commercial premises
Educational establishments
Hospitals
Hotels
Industries (other than home or rural industries)
Institutions
Junk yards
Liquid fuel depots
Mines
Motels
Places of public assembly
Places of public worship
Recreation establishments
Recreation facilities
Refreshment rooms
Retail plant nurseries
Roadside stalls
Sawmills
Service stations
Stock and sales yards
Transport terminals
Warehouses

Schedule 5 Species of trees

(Clause 31)

Myall	Acacia pendulosa
Kurrajong	Brachychiton populneum
Scrub Banksia	Banksia marginata
Wilga	Gejeria parvillora
Rusty Fig	Ficus rubiginosa
Bottlebrush	All callistemonia species
Banksia	All banksia species
Mellaleuca	All mellaleuca species
Grevillea	All grevillea species

Schedule 6 Classification and reclassification of public land

(Clause 38)

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

Column 1	Column 2
Locality	Description
Coonabarabran	Lot 1, DP 1033599, Jackson Street
Coonabarabran	Lot 2, DP 847880, Reservoir Street
Coonabarabran	Lot 337, DP 753378, Reservoir Street

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

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged
Nil	Nil	Nil

Part 3 Land classified, or reclassified, as community land

Column 1	Column 2
Locality	Description
Nil	Nil