

Tenterfield Local Environmental Plan 1996

[1996-164]



New South Wales

Status Information

Currency of version

Repealed version for 15 December 2008 to 18 April 2013 (accessed 17 July 2024 at 22:19)

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.

Notes—

- **Repeal**

The plan was repealed by cl 1.8 (1) of the [Tenterfield Local Environmental Plan 2013 \(152\)](#) (LW 19.4.2013) with effect from 19.4.2013.

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 19 April 2013

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New South Wales

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Tenterfield Local Environmental Plan 1996



New South Wales

Part 1 Preliminary

1 Name of plan

This plan may be cited as *Tenterfield Local Environmental Plan 1996*.

2 Aims, objectives etc

- (1) The general aim of this plan is to encourage the orderly management, development and conservation of natural and other resources within the area of Tenterfield by protecting, enhancing and conserving:
 - (a) prime crop and pasture land, and
 - (b) timber, minerals, soil, water and other natural resources, and
 - (c) areas of significance for nature conservation, and
 - (d) areas of high scenic or recreational value, and
 - (e) places and buildings of archaeological or heritage significance, including Aboriginal relics and places.
- (2) This plan replaces the planning controls imposed by former local environmental plans with a single local environmental plan intended to help facilitate growth and development of the area of Tenterfield in a manner which is consistent with the aims specified in subclause (1) and which:
 - (a) minimises the cost to the community of fragmented and isolated development of rural land, and
 - (b) facilitates the efficient and effective delivery of amenities and services, and
 - (c) facilitates a range of residential and employment opportunities in accordance with demand, and
 - (d) facilitates farm adjustments, and
 - (e) ensures that the efficiency of arterial roads is not adversely affected by

development on adjacent land.

(3) The aims of this plan with respect to heritage are:

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

3 Land to which plan applies

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

4 Relationship to other environmental planning instruments

This plan repeals *Tenterfield Local Environmental Plan 1986*.

5 Definitions

(1) In this plan:

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

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

archaeological site means a site identified as such a site in Schedule 1 to this plan.

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

bushfire hazard reduction means the reduction or modification by burning, chemical, mechanical or manual means of material that constitutes a bushfire hazard.

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

Council means the Tenterfield Shire Council.

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

dual occupancy development, in relation to an allotment or portion of land, means:

- (a) if no dwelling or dwelling-house exists on the allotment or portion—the erection of two attached dwellings on that allotment or portion, or
- (b) if a dwelling-house exists on an allotment or portion—the carrying out of alterations or additions to the existing dwelling-house so as to create two attached dwellings on that allotment or portion.

dual occupancy dwelling means a dwelling resulting from dual occupancy development.

flood liable land means land likely to be inundated by flood waters with a frequency greater than a 1 in 100 year event, to the best knowledge available to the Council, and identified as flood liable land on the map.

heritage conservation area means land shown as such an area on the map and includes buildings, works, relics, trees and places situated on or within that land.

heritage item means a building, work, relic, tree or place (which may or may not be situated on or within land that is a heritage conservation area) described in Schedule 2.

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 purpose of nurturing by a feeding method other than natural grazing and, without limiting the generality of the foregoing, includes:

- (a) feedlots,
- (b) piggeries,
- (c) poultry farms, and
- (d) fish farming (including the farming of crustaceans and oysters),

but does not include an animal boarding or training establishment or land used for the keeping of livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of the land or temporary agistment or feeding arrangements during flood or drought.

potential archaeological site means a site identified as such a site in Schedule 1 to this plan and includes a site known to the consent authority to have archaeological potential even if it is not so identified.

prime crop or pasture land means land identified, on a map prepared by or on behalf of the Director-General of the Department of Agriculture, as Class 1, Class 2 or Class 3 or as land of merit for special agricultural uses.

relic means:

- (a) any deposit, object or material evidence (which may consist of human remains) relating to the use or settlement of the Local Government area of Tenterfield, not being Aboriginal habitation, which is more than 50 years old, or
- (b) any deposit, object or material evidence (which may consist of human remains) relating to Aboriginal habitation of that area whether before or after its occupation by persons of European extraction.

special emphasis area means land identified by hatching on the map and includes land having slope in excess of 18°, wetlands and land within the catchment area of Tenterfield Water Supply reservoir.

the map means the map marked “*Tenterfield Local Environmental Plan 1996*”, as amended by the maps (or 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.

Tenterfield Local Environmental Plan 1996 (Amendment No 1)

Tenterfield Local Environmental Plan 1996 (Amendment No 3)

traffic impact statement has the same meaning as it has in the *Guide to Traffic Generating Development* published by the Roads and Traffic Authority of New South Wales, a copy of which is available for inspection at the office of the Council.

traffic impact study has the same meaning as it has in the *Guide to Traffic Generating Development* published by the Roads and Traffic Authority of New South Wales, a copy of which is available for inspection at the office of the Council.

tree includes a sapling or a shrub.

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

6 Adoption of model provisions

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

- (a) the definition of **arterial road** in clause 4 (1), and
 - (b) clauses 29 and 33,
- are adopted for the purposes of this plan.

7 Consent authority

The Council is the consent authority for the purpose of this plan.

Part 2 Zones

8 Zones indicated on the map

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

Zone No 1 (a)	(General Rural)—edged heavy black and lettered “1 (a)”.
Zone No 1 (f)	(Forests)—edged heavy black and lettered “1 (f)”.
Zone No 2 (v)	(Village or Urban)—edged heavy black and lettered “V”.
Zone No 8 (a)	(Existing National Parks and Reserves)—edged heavy black and lettered “8 (a)”.

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 development (if any) which:
 - (a) may be carried out without development consent,
 - (b) may be carried out only with development consent,
 - (c) may be carried out only with development consent and to which sections 84, 85, 86, 87 (1) and 90 of the Act apply in the same manner as they apply for designated development, and
 - (d) is prohibited,is specified under the headings “Without Development Consent”, “Only with Development Consent”, “Advertised Development—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 must not grant consent to the carrying out of development unless the Council is of the opinion that the carrying out

of the development is consistent with one or more of the objectives of the zone within which the development is proposed to be carried out.

Table

Zone No 1 (a) (General Rural)

1 Objectives of Zone

The objectives are as follows:

- (a) to promote efficient sustainable agricultural utilisation of agricultural land, particularly prime crop or pasture land,
- (b) to protect or conserve:
 - (i) soil stability by controlling development in accordance with soil capability,
 - (ii) forests of commercial value for timber production,
 - (iii) valuable deposits of minerals, coal, petroleum and extractive materials by controlling the location of development to enable 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, and
 - (v) water resources,
- (c) to enable the development of land within this zone for purposes that are compatible with the rural character of the land,
- (d) to enable the development of land for other purposes where it can be demonstrated by the applicant that no other land or buildings in the locality could reasonably be used for the proposed purpose and that such a use will not detrimentally affect the amenity of any existing or proposed nearby development.

2 Without Development Consent

Development for the purpose of:

advertising structures erected in accordance with clause 21 (a),
agriculture (other than intensive livestock keeping establishments),
bushfire hazard reduction, dams, dwelling-houses or dual occupancy

dwellings erected in accordance with clause 18, forestry, home occupations.

Exempt development.

3 Only with Development Consent

Development not included in Item 2 or 4.

4 Advertised Development—Only with Development Consent

Development for the purpose of:

aerodromes, animal boarding establishments, bulk stores, bus depots, car repair stations, child care centres, clubs, commercial premises, educational establishments, garbage disposal areas, general stores, generating works, hospitals, hotels, industries (including light industries and offensive and hazardous industries, but not rural industries), institutions, intensive livestock keeping establishments, junk yards, liquid fuel depots, mines, motels, motor showrooms, places of assembly, places of public worship, plant depots for machinery, professional consulting rooms, public buildings, racecourses, recreation establishments, recreation facilities, residential flat buildings, retail plant nurseries, roadside stalls, sawmills, service stations, shops (other than general stores), taverns, timber yards, tourist facilities, transport terminals, warehouses.

5 Prohibited

Nil.

Zone No 1 (f) (Forests)

1 Objectives of Zone

The objectives are as follows:

- (a) to identify land which is reserved under the [Forestry Act 1916](#),
- (b) to enable the development of land within this zone for forestry purposes,
- (c) to enable the development of land for other purposes where it can be demonstrated by the applicant that no other land or buildings in the locality could reasonably be used for the proposed purpose and that such a use will not detrimentally affect forestry operations on nearby land.

2 Without Development Consent

Any development authorised under the *Forestry Act 1916* and any development ancillary or incidental to any such development.

Exempt development.

3 Only with Development Consent

Development that will not adversely affect the usefulness of the land for the purpose of forestry.

4 Advertised Development—Only with Development Consent

Nil.

5 Prohibited

Development not included in Item 2 or 3.

Zone No 2 (v) (Village or Urban)

1 Objectives of Zone

The objectives are as follows:

- (a) to promote development in existing towns and villages in a manner which is compatible with their urban function,
- (b) to allow for the establishment of a full range of services and facilities associated with a village,
- (c) to enable the development of land within this zone where the scale, height, type and traffic-generating characteristics of the development are compatible with the character and amenity of a village or urban living area and with existing or a proposed nearby development,
- (d) to enable the development of land for other purposes where it can be demonstrated by the applicant that no other land or buildings in the locality could reasonably be used for the proposed purpose and that such a use will not detrimentally affect the amenity of any existing or proposed nearby development.

2 Without Development Consent

Development for the purpose of:

advertising structures erected in accordance with clause 21 (a), dwelling-houses, home occupations.

Exempt development.

3 Only with Development Consent

Development not included in Item 2, 4 or 5.

4 Advertised Development—Only with Development Consent

Development for the purpose of:

animal boarding establishments, bulk stores, dual occupancy dwellings, gas holders, generating works, home industries, junk yards, liquid fuel depots, mines, residential flat buildings, sawmills, stock and sale yards, timber yards, transport terminals.

5 Prohibited

Development for the purpose of offensive or hazardous industries.

Zone No 8 (a) (Existing National Parks and Reserves)

1 Objectives of Zone

The objectives are as follows:

- (a) to identify land which is reserved under the *National Parks and Wildlife Act 1974*,
- (b) to protect the land so identified,
- (c) to enable the development of land within this zone for the purpose of land uses which are authorised under the *National Parks and Wildlife Act 1974*.

2 Without Development Consent

Any development authorised under the *National Parks and Wildlife Act 1974* or any development ordinarily incidental or subsidiary to any such development.

Exempt development.

3 Only with Development Consent

Nil.

4 Advertised Development—Only with Development Consent

Nil.

5 Prohibited

Any development not included in Item 2.

Part 3 Special provisions

10 General considerations for development in Zone No 1 (a)

- (1) The Council must not consent to any development on land within Zone No 1 (a) 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 purpose of agriculture and the potential for sustained agricultural production of any land concerned which is prime crop or pasture land,
 - (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 from 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 site of the development, and
 - (f) future expansion of settlements in the locality.
- (2) As well as the matters referred to in subclause (1), the Council must take into consideration the relationship of the proposed development to development on adjoining land and on other land in the locality.
- (3) Subclause (1) does not apply to development, being:
 - (a) an addition to a building work,
 - (b) development ancillary to a purpose for which development may be carried out

with the consent of the Council under this plan, and

- (c) the erection of a dwelling-house on an allotment of land created in accordance with this plan by a subdivision for the purpose of a dwelling.

11 Subdivision generally

- (1) Except as provided by subclause (2), a person must not subdivide land to which this plan applies except with the consent of the Council.
- (2) The consent of the Council is not required for the subdivision of land for any one or more of the following purposes:
 - (a) to open a public road not involving the creation of an allotment,
 - (b) to make minor adjustments to common property boundaries, provided no additional allotments and no additional dwelling entitlement is created,
 - (c) to enlarge the area of a lot in a current plan by amalgamating that lot with one or more lots in a current plan or plans,
 - (d) to rectify an encroachment on a lot in a current plan.
- (3) The Council must not consent to an application to subdivide land within Zone No 1 (a) 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 purpose of agriculture in Zone No 1 (a)

- (1) The Council may consent to the creation within Zone No 1 (a) of an allotment of any size if it is satisfied the allotment will be used for the purpose of agriculture.
- (2) However, the Council must not consent to the creation within Zone No 1 (a) of an allotment it is satisfied will be used for the purpose of agriculture if the allotment has:
 - (a) an area of less than 100 hectares and there is a dwelling on that allotment, or
 - (b) a frontage to an arterial or main road of less than 400 metres.

13 Subdivision for the purpose of closer rural settlement in Zone No 1 (a)

- (1) The Council may consent to the subdivision of land within Zone No 1 (a) and the erection of a dwelling-house on each allotment created if each allotment has an area greater than 1 hectare and the Council is satisfied that the land is to be used primarily for residential purposes.
- (2) However, the Council must not consent to any such subdivision of land unless it is satisfied that:
 - (a) the land (being within the area of Tenterfield) is situated within a 10km radius of Tenterfield or Drake or within a 3km radius of Jennings, Liston, Legume, Urbenville or Torrington,
 - (b) the land has reasonable all-weather access and access is gained by means otherwise than directly from a main or arterial road,
 - (c) the land is not subject to significant environmental hazards, such as contamination by agriculture, mining or industrial activity, flooding, bushfire hazard, land slip, subsidence or any other environmental risk.
 - (d) the dwelling-house to be erected on the land:
 - (i) has an adequate potable water supply and a bulk water supply for fire fighting and additional domestic uses, and
 - (ii) has adequate provision for the on-site disposal of effluent without detriment to the environment,
 - (e) the land capability is adequate in relation to the density of the allotments proposed to be created,
 - (f) the design of each allotment to be created by the subdivision is satisfactory for the economic provision of services and suitable for on-site disposal of wastes,
 - (g) the ratio of depth to frontage of each allotment created by the subdivision is satisfactory having regard to the purpose for which the allotment is intended to be used, and
 - (h) the land is not within the catchment area of Tenterfield Creek upstream of the wall of the dam used for the Tenterfield water supply.
- (3) The Council may consent to the erection of a dwelling for residential purposes on an existing allotment of land within Zone No 1 (a) if the allotment meets the requirements contained in this clause.
- (4) The total number of allotments that may be created under subclause (1), in any 3-year period, shall not exceed a number specified by the Council.

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

- (1) The Council may consent to an application to subdivide land within Zone No 1 (a) which creates an allotment the Council is satisfied will be used primarily for purposes other than agriculture or a dwelling, only if the Council is satisfied that:
 - (a) none of the land the subject of the application is prime crop or 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 which creates an allotment the Council is satisfied will 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 the purpose, and
 - (c) the level of demand for goods or services which are to be supplied from the allotment and the extent to which that allotment is proposed to be used justify the creation of the allotment despite its agricultural value.

15 Subdivision of land in Zone No 2 (v)

A person may subdivide land within Zone No 2 (v) to create an allotment only if:

- (a) the allotment has access to a reticulated sewerage scheme, or
- (b) each separate allotment of land to be created by the subdivision is not less than 1,000 square metres in area, for allotments with on-site disposal of waste, or of such greater area as the Council considers necessary for adequate on-site disposal of waste.

15A Subdivision of land in Zone No 2 (v) at Saddler's Estate

- (1) This clause applies to Lot 1, DP 858198, fronting the New England Highway south of Tenterfield, and known as Saddler's Estate, as shown edged heavy black and lettered "2 (v)" on the map marked "*Tenterfield Local Environmental Plan 1996 (Amendment No 3)*".
- (2) A person may, with the consent of the Council, subdivide the land to which this clause applies into not more than 90 lots, but only if the Council is satisfied that each of those lots will have access to a reticulated sewerage scheme.
- (3) In considering whether to grant consent to development of the land, the Council must take into account whether the proposed development is likely to have a significant adverse effect on:

- (a) the Tenterfield Water Supply Dam, and
- (b) flooding or the flow of water downstream of the Tenterfield Water Supply Dam.

16 Dwellings in Zone No 1 (a)

- (1) A person must not erect a dwelling-house on vacant land within Zone No 1 (a) unless:
 - (a) the land has an area of 100 hectares or more and, in the opinion of the Council, has adequately constructed road access, or
 - (b) the land has an area of less than 100 hectares and comprises:
 - (i) an allotment created under this plan primarily for a purpose other than agriculture, or
 - (ii) an allotment on which a dwelling-house could have been erected immediately before the appointed day, and the Council is satisfied that:
 - adequate arrangements have been made for the provision of vehicular access to the site of the proposed dwelling-house,
 - the erection of the proposed dwelling-house will not create or increase ribbon development along a main or arterial road, and
 - adequate public utility services will be available to the land.
- (2) Despite clause 12, the Council may consent to a dwelling on land within Zone No 1 (a) on an allotment having a smaller size than that otherwise provided by this clause where the dwelling will be used in association with specialised or intensive agricultural enterprises on that land, but only where it is satisfied that:
 - (a) the dwelling is associated with the use of the land for the purpose of specialised or intensive agriculture, which may consist of intensive horticulture or animal husbandry,
 - (b) creation of the allotment will not adversely affect the agricultural viability or potential of the residue of the land subdivided and the residue is capable of economically supporting an agricultural use of a type common in the locality,
 - (c) the proposed use to which the allotment will be put is efficient agricultural use, having regard to the size and layout of the allotment,
 - (d) an adequate water supply is available or can be made available to the proposed allotment and is of a suitable capacity for the proposed use,
 - (e) there is adequate capacity for efficient on-site waste disposal,
 - (f) the soil, topography, drainage and other physical characteristics of the land are

suitable for the proposed use,

- (g) adequate all-weather vehicular access is available or can be made available to the land, and is of a suitable standard and capacity,
- (h) the proposed use will not adversely affect the amenity of the land surrounding the proposed allotment, and
- (i) adequate arrangements have been made to ensure that the agricultural land use proceeds at the same time as erection of the dwelling.

- (3) In determining an application for consent to subdivide land allowed by this clause, the Council may refuse to grant consent unless it has considered supporting evidence to demonstrate the agricultural efficiency of the proposed use, including the advice of an expert agronomist.

17 Replacement of existing dwelling-house

- (1) A dwelling-house may, with the consent of the Council, be erected on an allotment of land to which this plan applies on which another dwelling-house is erected if the first mentioned dwelling-house is intended to wholly replace the second mentioned dwelling-house.
- (2) Where the Council grants consent under this clause, the second mentioned dwelling-house must be demolished or removed from the allotment within 6 months of occupation of the first mentioned dwelling-house.

18 Erection of additional dwellings in Zone No 1 (a)

- (1) The Council may consent to the erection of one additional dwelling on land within Zone No 1 (a) (or the alteration of an existing dwelling to create two dwellings) where:
 - (a) a dwelling could be erected on the land in accordance with clause 16,
 - (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 for which the land is being used, and
 - (e) the land has an area of not less than 2 hectares and is considered by the Council to be suitable for adequate disposal of waste.
- (2) The Council must not consent to the subdivision of land on which an additional dwelling is erected in pursuance of this clause except in accordance with the other provisions of this plan.

19 Development that must be advertised

- (1) Pursuant to section 30 (4) of the Act, the provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of:
 - (a) development within a zone, being development included in Item 4 in the Table to clause 9 in relation to that zone,
 - (b) the demolition of a heritage item,
 - (c) the use of a building or land which is a heritage item or of the site of any such item, and
 - (d) the use of a building or 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.
- (2) Paragraphs (b), (c) and (d) of subclause (1) do not apply in relation to the partial demolition of a building or work where, in the opinion of the Council, the partial demolition 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 area of Tenterfield.

20 Special emphasis area

- (1) This clause applies to land shown hatched on the map.
- (2) Despite any other provision of this plan, a person must not carry out development on land to which this clause applies for the purpose of any one or more of the following:
 - (a) animal boarding establishments,
 - (b) intensive livestock keeping establishments,
 - (c) junk yards,
 - (d) liquid fuel depots,
 - (e) offensive or hazardous industries,
 - (f) sale yards.

21 Advertising structures

A person may erect an advertising structure on any land:

- (a) without the consent of the Council, if the structure has an outline that would fit within a rectangular figure 1200mm in length and 600mm in height, but only where the advertisement on or to be placed on the structure indicates or is to indicate:

- (i) the purpose for which premises on the land are or are to be used,
 - (ii) the goods or services sold or provided from any such premises,
 - (iii) that the premises are available for sale or are available for lease, or
- (b) only with the consent of the Council, if the advertising structure is to be used for the purpose of displaying an advertisement indicating the location of local commercial services, tourist facilities and places of scientific, historic or scenic interest and where the Council is satisfied that the advertising structure will not interfere with the amenity of the locality.

22 Development along arterial roads

- (1) The Council must 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, and
 - (iii) the nature, volume or frequency of vehicles using the arterial road to gain access to the proposed development, and
 - (c) the Council has taken into consideration the cumulative effects of the carrying out of development on the safety and efficiency of the arterial road and the conservation of remnant roadside vegetation.
- (2) The Council must not consent to the development, for any purpose listed in Schedule 3, of land within Zone No 1 (a) that has direct access to:
- (a) an arterial road, or
 - (b) a road connecting with an arterial road, where access to that road is within 90 metres (measured along the road alignment of the connecting road) of the alignment of the arterial road,

unless the Council has considered a traffic impact study or traffic impact statement in relation to the proposed development.

23 Flood liable land

A person must not erect a building or carry out a work for any purpose on flood liable land

except with the consent of the Council.

24 Land subject to bushfire hazards

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

- (a) adequate provision is made for access for fire fighting 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.

25 Protection of heritage items, heritage conservation areas and relics

(1) The following development may be carried out only with development consent:

- (a) demolishing, defacing, damaging or moving a heritage item or a building, work, relic, tree or place within a heritage conservation area, or
- (b) altering a heritage item or a building, work or relic within a heritage conservation area by making structural changes to its exterior, or
- (c) altering a heritage item or a building, work or relic within a heritage conservation area by making non-structural changes to the detail, fabric, finish or appearance of its exterior, except changes resulting from any maintenance necessary for its ongoing protective care which does not adversely affect its heritage significance, or
- (d) moving a relic, or excavating land for the purpose of discovering, exposing or moving a relic, or
- (e) erecting a building on, or subdividing, land on which a heritage item is located or which is within a heritage conservation area.

(2) Development consent is not required by this clause if the consent authority is of the opinion that the proposed development would not adversely affect the heritage significance of the heritage conservation area.

(3) When determining a development application required by this clause, the consent authority must take into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area.

Note—

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

Statements of Heritage Impact).

Note—

The consent or permission of the Director-General of National Parks and Wildlife may also be required if the land is an Aboriginal place or contains Aboriginal relics (see Part 6 of the [National Parks and Wildlife Act 1974](#)).

26 Notice of certain heritage development applications

Sections 84, 85, 86, 87 (1) and 90 of the Act (which provide for the giving of notice, and for the making and consideration of submissions, about proposed development) apply to the demolishing, defacing or damaging of a heritage item or a building, work, relic, tree or place within a heritage conservation area (and to the use of a building or land referred to in clause 30 for a purpose which, but for that clause, would be prohibited by this plan) in the same way as those provisions apply to designated development.

27 (Repealed)

28 Development of known or potential archaeological sites

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

(b) (Repealed)

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

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

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

30 Conservation incentives

- (1) The consent authority may grant consent to the use, for any purpose, of a building that is a heritage item or is within a heritage conservation area, or of the land on which the building is erected, even though the use would otherwise be prohibited by this plan, if it is satisfied that:
 - (a) the proposed use would not adversely affect the heritage significance of the item or heritage conservation area, and
 - (b) the conservation of the building depends on the granting of the consent.
- (2) When considering an application for consent to erect a building on land on which a heritage item is located or on land within a heritage conservation area, the consent authority may, for the purpose of determining:
 - (a) the floorspace ratio, and
 - (b) the number of parking spaces to be provided on the site,exclude the floor space of the building from its calculation of the floor space of the building erected on the land but only if the consent authority is satisfied that the conservation of the building depends on it making the exclusion.

31 Exempt development

- (1) Development listed in Column 1 of Schedule 4 is exempt development in the circumstances set out in Column 2 of that Schedule opposite the development, except as provided by subclauses (2) and (3).
- (2) Development is exempt development only if:
 - (a) it does not cause interference with the amenity of the neighbourhood because of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil or otherwise, and

- (b) it complies with any deemed-to-satisfy provisions of the *Building Code of Australia* relevant to the development, and
 - (c) it does not contravene any condition of development consent applying to the land, and
 - (d) it does not obstruct drainage of the site on which it is carried out, and
 - (e) it does not restrict any vehicular or pedestrian access to or from the site, and
 - (f) it is carried out at least one metre from any easement or public sewer main and complies with the building over sewer requirements of Tenterfield Shire Council applying to the land,
 - (g) it is carried out behind the building line, where it is carried out in a heritage conservation area.
- (3) Development is not exempt development if it is carried out on land that:
- (a) is the site of a heritage item, or
 - (b) is an Aboriginal area or relic under the *National Parks and Wildlife Act 1974*, or
 - (c) is reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna or geological formations or for other environmental protection purposes, or
 - (d) is an aquatic reserve declared under the *Fisheries Management Act 1994*.

32 Complying development

- (1) Development listed in Schedule 5 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, except as provided by subclauses (2) and (3).
- (2) Development is complying development only if:
- (a) the development listed in Column 1 of Schedule 5 is carried out in accordance with the development standards and other requirements specified in Column 2 of that Schedule for the development, and
 - (b) it complies with any deemed-to-satisfy provisions of the *Building Code of Australia* relevant to the development, and
 - (c) it will be carried out behind the rear alignment of any building on the site on which

- it is proposed to be carried out, if that site is located in a heritage conservation area identified by this or any other environmental planning instrument, and
- (d) no environmental planning instrument states that the adequacy of an acid sulfate soils management plan for the proposed development must be considered before consent can be granted for it, and
 - (e) it is consistent with any plan of management approved under *State Environmental Planning Policy No 44—Koala Habitat*, and with any recovery plan or threat abatement plan in force under the *Threatened Species Conservation Act 1995* that affect the land, and
 - (f) it does not contravene any conditions of a development consent applying to the land, and
 - (g) a certificate of compliance has been obtained for the development, if required, from Tenterfield Shire Council as the local water supply authority.
- (3) Development is not complying development if it is carried out on land that:
- (a) is identified in this or any other environmental planning instrument, or in a Development Control Plan adopted by the Council, as bushfire prone, flood liable or contaminated land, or land subject to subsidence, slip or erosion, or
 - (b) is a site that has previously been known to be used as a service station or a sheep or cattle dip, for intensive agriculture, mining or extractive industry, waste storage or waste treatment, or for the manufacture of chemicals, asbestos or asbestos products, and a notice of completion of remediation work for the proposed use has not been given to the local council in accordance with *State Environmental Planning Policy No 55—Remediation of Land*, or
 - (c) is a relic or an Aboriginal area under the *National Parks and Wildlife Act 1974*, or
 - (d) is within the Special Emphasis Area under this plan, or
 - (e) is reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna or geological formations or for other environmental protection purposes, or
 - (f) is an aquatic reserve declared under the *Fisheries Management Act 1994*.
- (4) A complying development certificate issued for any such development is to be subject to the conditions for the development specified in *Tenterfield Development Control Plan for Complying Development Conditions* adopted by the Council on 28 October 1999, as in force when the certificate is issued.

Schedule 1 Archaeological sites

(Clause 5 (1))

Note—

This Schedule is blank until material is inserted in accordance with clause 5 (1).

Schedule 2 Heritage items

(Clause 5 (1))

Tenterfield:

Street/House No	Property	Item
<u>Bulwer Street</u>		
144	Lots B and 8 Section 59	House
<u>Clarence Street</u>		
14	Lots 11 and 12 Section 59	House 'Deloraine' formerly Grammar School
<u>Douglas Street</u>		
101	Lots 6-8 Section 25	House 'Claremont'
130	Lot 1 DP 517186	House
<u>High Street</u>		
123	Lot 1 DP 561679	Saddlery Shop
170	Lot 7 Section 4	House
	Lots 11 and 12 and part Lots 1, 2, 3 and 4, Section 21	Tenterfield High School
<u>Logan Street</u>		
137	Part Lot 2 Section 5	House/Manse
105	Lot 1 DP 779307	House
108	Lots 3 and 4 Section 11	Girl Guides Building, formerly MUIOOF Hall and House
112	Lot 1 DP 799737	House

126	part Lots 1 and 20 Section 12	House
130-132	part Lot 1 Section 12	Pair of Houses including 'Nullum'
136	part Lot 6 Section 13	Centenary Cottage Group
136	part Lot 6 Section 13	Museum Centenary Cottage/Historical Society
147 and 149	Lot 1 DP 555480 and Lot B (Resub Part Lot 4) Section 4	House
		Pin Oak Trees
<u>Manners Street</u>		
164	part Lot 11 Section 58	House
2	Lots 18-27 Section 1 DP 1280	West End Motel/Caravan Park
<u>Molesworth Street</u>		
4	Lot 1 DP 707211	House
89 91 and 93	Lots 5, 6 and 7 Section 20	Molesworth Street Group
	Lot 7 Section 19	Courthouse
	Section 19	Gaol and Police Station. Police Buildings, including Warden's Residence and two Cottages
	Lots 4, 5, 8 and 9 Section 19	Tenterfield and District Soldiers Memorial Hall
		Monument Mounted Rifles Memorial
<u>Mt Lindesay Road</u>		
	Lot 1 Section 8	House
<u>Pelham Street</u>		
180	Lot 2 Section 48	House
<u>Railway Avenue</u>		
		Railway Station Complex Railway Land

		Station Buildings Railway Land
		Station Master's Residence Railway Land
		Storage Buildings Railway Land
<u>Rouse Street</u>		
114	Lots 14-19 Section 19	Stannum Hotel/Motel
203	Lot 10, Section 11 and Lot 1 DP 118800	School of Arts
212	Lot 5 Section 21	Exchange Hotel
225	Lots 11 and 12 Section 12	Post Office
305	Part Lot 5, 9/11 Section 13	State (formerly Rural) Bank
379	Lot 13 Section 15	House
91	Lot 8 Section 75	House
	Lot 146 DP 5223	'Tenterfield Station'
	'Tenterfield Station'	Barn
<u>Scott Street</u>		
	Lots 67, 14 and 15 Section 23	Church Hall formerly St Mary's Roman Catholic Church
<u>Wood Street</u>		
92-94	Lot 13 Section 59 and Lot 2 DP 588487	House Wood Street Group
	Allotment 3 Section 65	Cork Tree
Urbenville:		
<u>Beaury Street</u>		
	Lots 20 and 21 Section 10	St Joseph's Catholic Church

Stephen Street

Lot 4
Section 6 Church

Urban Street

Part Lot 2
Section 4, DP 5585 Pioneer Cottage Urbenville R91056 for
Museum

Allotment 1
Section 2, DP 5585 National Bank

50

Lot 7 and Lot 8 (Resub Part Lots 3
and 4)
DP 6923 Newsagency

42

Part Lot 6
Section 11 DP 6923 Store

Allotments 14 and 15
Section 10 DP 5585 Post Office

Rural:

Bruxner Highway

Portion 107
Parish of Tenterfield
County of Line 'Ayrdrrie House'

Lot 6
DP 20078 'Cooredulla'

Potters Road

Portion 19
Parish of Gibraltar
County of Line Arsenic Mine

Upper Tooloom Road

Portions 6 and 7
Parish of Clarence
County of Buller 'Calderwood Glen'

Schedule 3 Development restricted along arterial roads

(Clause 22)

Bulk Stores
Car Repair Stations
Clubs
Commercial Premises
Educational Establishments

Hospitals
Hotels
Industries (other than home or rural industries)
Institutions
Junk Yards
Liquid Fuel Depots
Mines
Places of Public Assembly
Places of Public Worship
Recreation Establishments
Recreation Facilities
Refreshment Rooms
Retail Plant Nurseries
Roadside Stalls
Sawmills
Stock and Sale Yards
Transport Terminals
Warehouses

Schedule 4 Exempt development

(Clause 31 (1))

Column 1

Development

Access ramps—construction of access ramps suitable for use by disabled persons

Column 2

Circumstances for exemption

- the structure is erected at least 1 metre from the side and rear boundaries of the site and behind the building line,
- the height of the structure extends no more than 3 metres above the natural ground level,
- the structure, paving or hard surface area covers not more than 25 square metres,
- the development does not involve excavation beyond 600 millimetres below natural ground level,
- where the structure is located in a fire protection zone or an asset protection zone identified in a bush fire risk management plan in force under the [Rural Fires Act 1997](#) it is made of non-combustible materials, and
- the structure complies with AS 1428.1-1998.

Advertising structures and displays—the erection of an advertising structure and display of an advertisement on it, or the display of an advertisement that is not on an advertising structure (other than an illuminated sign in a residential area)

- the advertisement and any structure are not visible from outside the site on which they are displayed,
- the advertisement is behind the glass line of a shop window,
- the advertisement is a temporary advertisement for a social, cultural or recreational event that is displayed no more than 28 days before the event and is removed within 14 days after the event,
- the advertisement is a public notice displayed by a public authority giving information about a service,
- the advertisement is a real estate sign advertising that the premises on which it is displayed are for sale or lease, and the advertisement and any structure together have a maximum area of 2.5 square metres in the case of residential or rural premises, or 4.5 square metres in the case of commercial or industrial premises,
- the advertisement replaces one lawfully displayed on the same structure, or
- the advertisement displays a message relating to the premises on which it is situated and the advertisement and any structure together have a maximum area of:
 - 0.75 square metres in the case of a residence, or
 - 10 square metres in the case of an industrial premises, or
 - 50% of the front elevation of a building on which it is displayed in the case of a commercial business premises,and a maximum height of either 4.6 metres above ground level or the height of a first floor window sill and, if suspended from an awning along a public road, the advertisement is not lower than 2.6 metres above ground level.

Aerials, antennae or radio masts—erection and use of aerials, antennae or radio masts but not including satellite dishes or microwave antennae.

- the structure is used for domestic purposes only,
- maximum of one per dwelling,
- the structure is located wholly within the boundaries of the allotment and does not contravene the Council's adopted building line,
- the height of the structure extends no more than 6 metres above natural ground level, and
- an engineer's certification for the structure is obtained and complied with.

Airconditioning units—installation and use of airconditioning units ancillary to dwellings (attached to external wall or ground mounted).

- the structure is located not less than 3 metres from any allotment boundary,
- the structure does not contravene the Council's adopted building line,
- any building work complies with the *Building Code of Australia*, and
- the use of the structure is not audible in a neighbour's residence between the following hours:
 - 10.00 pm to 7.00 am weekdays
 - 10.00 pm to 8.00 am weekends and public holidays.

At all other times, the noise level does not exceed 5dBA above ambient background noise level measured at the allotment boundary.

Ancillary or incidental development—carrying out of development that is ordinarily incidental or ancillary either to a use allowed by a development consent or to a lawful existing use (as defined in section 106 of the Act) and is not listed elsewhere in this Schedule

- any ancillary structure is erected at least 1 metre from the side and rear boundaries of the site and behind the building line,
- the height of any ancillary structure extends no more than 3 metres above the natural ground level,
- any ancillary structure, paving or hard surface area covers not more than 25 square metres,
- the development does not involve excavation beyond 600 millimetres below natural ground level, and
- the development does not involve handling, storing or using hazardous chemicals or materials otherwise than on a domestic scale (except on farms and at a distance of more than 25 metres from any habitable building), and does not release any hazardous chemicals or materials or any pollutants into the environment,
- the development does not involve a display of an advertisement unless allowed by some other provision of this Schedule, and
- any ancillary structure located in a fire protection zone or an asset protection zone identified in a bush fire risk management plan in force under the [Rural Fires Act 1997](#) is made of non-combustible materials.
- the structure is located wholly within the allotment boundaries,
- the structure does not contravene the Council's adopted building line,
- the structure does not extend to within 1 metre from the side or rear boundary,
- the area covers no more than 10 square metres,
- the structure consists of a roof only or a roof and supporting posts, and
- any concrete floors immediately below the structure are a minimum of 100mm thick and reinforced with F62 mesh.

Awnings, canopies and storm blinds—addition of a roof-like shelter of canvas, metal or timber to a dwelling.

Barbeques—erection and use of barbeques that are ordinarily incidental or ancillary to a dwelling.

- the structure is located wholly within the boundaries of the allotment,
- the structure is erected at least 1 metre from the side and rear boundaries and behind the building line,
- the structure is not located within 6 metres of an LPG tank other than the energy source for the barbeque, and
- the structure is not used for commercial purposes.

Bird aviaries—erection of bird aviaries for domestic purposes only and not for the keeping of fowls.

- the area covers no more than 25 square metres,
- the height extends no more than 2.4 metres above natural ground level,
- the structure is erected at least 1 metre from the side and rear boundaries and behind the building line,
- the structure is fixed down to a concrete slab having a minimum thickness of 100 millimetres and reinforced with F62 mesh, and
- reinforcement steel is placed 25 to 30 millimetres below the top of the finished slab and mesh is lapped by 225 millimetres.

Building alterations—alterations to a building comprising non-structural alterations to the exterior of a building (such as painting, plastering, cement rendering, cladding, attaching fittings and decorative work) or interior alterations to a building that do not affect the load-bearing capacity of any load-bearing component of the building.

Building site sheds, offices and associated amenities buildings—erection and use of such sheds, offices and buildings.

- the structure is located wholly within the boundaries of the allotment,
- the structure is removed immediately after completion of construction work and prior to occupation of the building,
- the structure is removed within 12 months of installation on the site regardless of time of occupation,
- the structure is supported on a substructure and tied down to ground anchors or footing pads,
- the structure is so constructed as to be removable from the site within 24 hours,
- an engineer's certification for the structure is obtained and complied with, and
- all sanitary fixtures are connected to the Council's service mains, where present, at a point of connection provided by the Council. All water supply, drainage or sewerage work is carried out in accordance with the requirements of the *NSW Plumbing and Drainage Code* by a licensed plumber and drainer.

Bus shelters—erection and use of bus shelters

- the structure is constructed by or on behalf of the Council,
- an engineer's certification for the footings and the structure is obtained and complied with,
- the structure does not obstruct the line of sight of drivers of vehicles on the road,
- the top of the structure extends no more than 2.7 metres above the footpath,
- the area covers no more than 10 square metres, and
- all building materials used on the exterior of the structure have a non-reflective surface finish.

Cabanas, gazebos, greenhouses and garden sheds—erection and use of cabanas, gazebos, greenhouses and garden sheds associated with a dwelling.

- the area covers no more than 10 square metres,
- the height extends no more than 2.4 metres above natural ground level,
- external building materials have a non-reflective surface finish.

Change of use of an existing lawful building—a different use of a building but not involving alterations to the building (unless allowed by other provisions in this Schedule)

- the new use is consistent with the classification of the building under the *Building Code of Australia* and replaces a former use being carried out in accordance with a development consent, and:
 - it is not actually or potentially a hazardous or offensive industry, and
 - it does not involve the preparation of food for sale or consumption, and
 - it is not prohibited by any provision,
- the new use results from a change of building use from a shop to an office or from an office to a shop that is not in the business of preparing food for sale or consumption, where:
 - the new use replaces a former use being carried out in accordance with a development consent, and
 - the use of not more than 200 square metres of floorspace is changed, and
 - the new use is not prohibited by any provision,
- the new use is a temporary use of a building that does not exceed 25 metres in height for public entertainment over a period not exceeding 72 hours, and
- the new use will not actually or potentially render the building a hazardous or offensive storage establishment.

Clothes hoists/lines—erection and use of clothes hoists or lines.

- the structure is located wholly within the boundaries of the allotment and does not contravene the Council's adopted building line, and
- the structure is installed to the manufacturer's specifications.
- the area covers no more than 10 square metres,
- the height extends no more than 2.1 metres above natural ground level,

Cubby houses and playground equipment—erection and use of cubby houses or playground equipment associated with a dwelling house or a recreation area.

- the structure is located wholly within the boundaries of the allotment and does not contravene the Council's adopted building line, and
- the structure is installed to the manufacturer's specifications and complies with the relevant Australian Standards (AS 1924.1-1981, AS 1924.2-1981, AS 4422:1996 and AS 4486:1997).

Decks—erection and use of unroofed decks attached to a dwelling.

- the structure is erected at least 1 metre from the side and rear boundaries of the site and behind the building line,
- the height of the structure extends no more than 3 metres above the natural ground level,
- the structure, paving or hard surface area covers not more than 25 square metres,
- the development does not involve excavation beyond 600 millimetres below natural ground level,
- where the structure is located in a fire protection zone or an asset protection zone identified in a bush fire risk management plan in force under the [Rural Fires Act 1997](#) it is made of non-combustible materials, and
- finished surface level is not greater than 1 metre above the existing ground level.

Demolition of a building—includes demolition of a building that is not a heritage item, or the erection of which would be exempt development under this plan, or a temporary building the erection of which would be complying development under this plan.

- demolition is carried out in accordance with AS 2601-1991—*The Demolition of Structures*, and
- the structure covers an area of not more than 25 square metres.
- in the case of development carried out on land within Zone No 2 (v):
 - the erection of the structure complies with any relevant covenant or Council policy,
 - where the structure is erected behind the building line and is not of masonry construction the height does not exceed 1.8 metres above natural ground level,
 - where the structure is erected forward of the building line the height does not exceed 1.2 metres above natural ground level, and
 - where the structure is located in a fire protection zone or an asset protection zone identified in a bushfire risk management plan in force under the [Rural Fires Act 1997](#) it is constructed with non-combustible materials.
- electric fences are erected in accordance with AS 3014—1991*Electrical Installation*,
- security fences are of a chain wire type construction.

Fences—erection of fences other than fences covered by the [Swimming Pools Act 1992](#)

Flagpoles—erection and use of flagpoles

- the height of the structure does not exceed 6 metres above natural ground level,
- the structure is structurally adequate,
- the number of flagpoles does not exceed one per allotment, and
- the structure has clearance from power lines in accordance with the requirements of the relevant power authority.

Fowl houses—erection and use of fowl houses (for the keeping of poultry).

- the height of the structure does not exceed 2.1 metres above natural ground level,
- the building materials blend with the environment and have non-reflective surface finishes,
- the structure is structurally adequate,
- adequate drainage is provided,
- for development on land within Zone No 2 (v):
 - the area covers no more than 25 square metres, and
 - the number of fowl houses does not exceed one per site, and
- for development on land within Zone No 1 (a)—the area covers no more than 50 square metres.

Fuel tanks—installation of fuel tanks to be used in conjunction with agricultural activities on the property on which they are situated.

- the development is carried out on land within Zone No 1 (a) that is not flood liable land,
- the area of the property on which the development is to be carried out is not less than 2 hectares,
- the volume of the fuel tank does not exceed 5000 litres,
- the structure is erected at least 20 metres from a street boundary and at least 4 metres from side and rear boundaries and does not encroach on any registered easements,
- the clearance of the structure from power lines is in accordance with the requirements of the relevant electricity authority, and
- the fuel tank is constructed of prefabricated metal, is free standing, does not rely on other structures for support and is erected in accordance with the manufacturer's specifications.

Goal posts and similar ancillary sporting structures—erection of ancillary sporting structures on sporting or playing fields but not including grandstands, dressing sheds, kiosks and such structures.

- the structure is constructed by or for the Council and installed in accordance with the relevant Australian Standards (if any) and the *Building Code of Australia*.

Home occupations—the use of premises for a home occupation

- the development is carried out only by the permanent residents of the dwelling, and
- carrying out of the development does not require registration of the premises under the *Factories, Shops and Industries Act 1962*.

Letter box—erection and use of a letter box

- Each letter box is appropriately numbered, and
- the structure does not encroach onto the road reserve.

Machinery sheds, shearing sheds, temporary buildings—the erection and use of machinery sheds and other similar non habitable farm buildings or structures which are used for normal agricultural purposes.

- the development is carried out on land that is:
 - within Zone No 1 (a),
 - not within the Special Emphasis Area, and
 - not flood liable,
- the structure is structurally sound and adequately braced to withstand wind loadings,
- the structure is constructed to comply with the *Building Code of Australia*, and
- the structure is not erected within 40 metres of a watercourse or a dwelling on an adjoining property.

Microwave antennae—erection and use of microwave antennae for subscription television associated with a dwelling.

- for domestic use only,
- the area of the reflector element does not exceed 650 square millimetres,
- the antennae does not extend more than 3.6 metres above the roof line, and
- the structure is located wholly within the boundaries of the allotment.

Park and street furniture—erection and use of park and street furniture but not including bus shelters.

- the development is carried out on land under the control of the Council,
- the development is constructed by or on behalf of the Council, and
- the furniture is designed, fabricated and installed in accordance with relevant Australian Standards (if any) and the *Building Code of Australia*.

Patio—erection and use of patio at ground level abutting a dwelling.

- the area of the structure does not exceed 20 square metres,
- stormwater from the patio surface is not redirected onto adjoining properties,
- sufficient step down is provided to prevent the entry of water into the dwelling, and
- the structure is constructed to comply with the *Building Code of Australia*.

Pergolas—erection and use of open pergola associated with a dwelling.

- the structure is erected at least 1 metre from the side and rear boundaries of the site and behind the building line,
- the height of the structure extends no more than 3 metres above the natural ground level,
- the structure, paving or hard surface area covers not more than 25 square metres,
- the development does not involve excavation beyond 600 millimetres below natural ground level,
- where the structure is located in a fire protection zone or an asset protection zone identified in a bush fire risk management plan in force under the *Rural Fires Act 1997* it is made of non-combustible materials, and

Playground equipment—erection and use of playground equipment on Council-owned land.

- the structure is structurally adequate.
- the area covers no more than 25 square metres,
- the height of the walls is no more than 2.1 metres,
- the structure is erected at least 1.2 metres away from any pool safety fence measured in accordance with clause 2.3 of AS 1926-1986, and
- the structure is installed in accordance with the manufacturer's instructions and complies with relevant Australian Standards.

Public meetings—the use of a building for the purpose of a public meeting.

- the building is a class 9b building under the *Building Code of Australia*.

Retaining walls—erection of retaining wall.

- the height of the structure is not more than 600 millimetres above natural ground level, and
- structures constructed from timber or masonry (or both) comply with the relevant Australian Standards.

Satellite dishes—erection and use of satellite dishes.

- the dish is not mounted on the facade or roof of a building which has frontage to a public road and is not in front of the building line adopted by the Council,
- in the case of development carried out on land within Zone No 2 (v), the diameter of the dish (excluding any projected feed element) does not exceed 900 millimetres, and
- in the case of development carried out on land within Zone No 1 (a), the diameter of the dish (excluding any protected feed element) does not exceed 1.5 metres.

Scaffolding—erection of scaffolding.

- scaffolding does not encroach onto footpath or public thoroughfare,
- scaffolding encroaches onto an adjoining property only with the consent of the adjoining property owner, and
- scaffolding is erected in accordance with the requirements of the WorkCover Authority.

Silos—erection and use of silos.

- the development is carried out on land that is:
 - within Zone No 1 (a),
 - not within the Special Emphasis Area, and
 - not flood liable,
- the capacity of the silo is not more than 120 tonnes,
- the distance of the structure from:
 - a street boundary is more than 20 metres, and
 - a side or rear boundary exceeds the height of the silo plus 1 metre,
- the structure does not encroach on any registered easements,
- the clearance of the structure from power lines is in accordance with the requirements of the relevant Electricity Authority, and
- the structure is constructed of prefabricated metal, is freestanding, does not rely on other structures for support, and is erected in accordance with the manufacturer's specification or an engineer's certification.

Skylight roof windows—construction of skylight roof windows that are non-opening.

- the area of the skylight is not more than 1 square metre,
- the skylight is located not less than 1 metre from a property boundary and not less than 1 metre from a wall separating attached dwellings,
- the skylight does not reduce the structural integrity of the building or involve structural alterations,
- any opening created by the installation is adequately weather proofed, and
- installation of the skylight is in accordance with the manufacturer's instructions.

Stockyards—erection of stockyards and their use in conjunction with normal agricultural activities on the property.

- the stockyards are not used for commercial or intensive agricultural uses,
- the development is carried out on land that is:
 - within Zone No 1 (a),
 - not within the Special Emphasis Area, and
 - not flood liable,
- the stockyard does not cover more than 0.5 hectares,
- the height of the structure does not exceed 2.4 metres above natural ground level,
- the structure is built of timber or metal or both,
- the development is not carried out within 20 metres of the allotment's front boundary and 4 metres of the side and rear boundaries, and
- the development is not carried out within 40 metres of a watercourse or a dwelling on an adjoining property.

Subdivision—subdivision of land for the purpose of a minor boundary adjustment or to rectify an encroachment.

- the subdivision will effect a minor boundary adjustment that:
 - will not result in result in any building contravening the deemed-to-satisfy provisions of the *Building Code of Australia*,
 - will not create additional allotments, and
 - will not create additional dwelling entitlements.
- the subdivision will rectify an encroachment and will not result in any building contravening the deemed-to-satisfy provisions of the *Building Code of Australia*.

Water heaters—installation of water heaters (other than solar systems).

- any building work complies with the *Building Code of Australia*, and
- installation is carried out by a licensed plumber.

Water tanks—installation and use of water storage tanks at or above ground level.

- there will be no interconnection in any way with the Council's water supply.

Windows, glazed areas and external

doors—replacement of windows, glazed areas and external doors on a dwelling house.

- replacement with materials that comply with AS 1288-1994 *Glass in Buildings—Selection and Installation* and AS 2208:1996—*Safety Glazing Materials in Buildings (Human Impact Considerations)*,
- there is no reduction in the area provided for light and ventilation,
- structural support members in the wall are not removed,
- any work involving asbestos cement complies with the WorkCover Authority’s “Guidelines for Practices Involving Asbestos in Buildings”, and
- any work involving lead paint removal does not cause lead contamination of air or land.

Schedule 5 Complying development

(Clause 32 (2) (a))

Column 1

Complying development

Bed and breakfast accommodation—the use of an existing lawful dwelling by its permanent residents for the temporary accommodation of visitors for commercial purposes in Zone No 1 (a) only.

Column 2

Development standards and requirements

- There are no more than 3 guest rooms.
- There are at least two bathrooms.
- There is a maximum of one advertising sign per dwelling and the area of the sign does not exceed 0.6 square metres.
- Approval has been obtained from the owners corporation, or the community, precinct or neighbourhood association, where a dwelling is subject to the [Strata Schemes Management Act 1996](#) or the [Community Land Management Act 1989](#).
- The dwelling complies with the [Food Act 1989](#), the [Food \(General\) Regulation 1997](#) and the Australian Institute of Health Surveyor’s National Food Premises Code.
- The dwelling complies with AS 3786-1993—*Smoke Alarms* and AS 3000-1991—*Electrical Installation for Buildings, Structures and Premises*.
- The dwelling has a fire extinguisher and fire blanket in the kitchen.

Commercial uses and building alterations—a change of building use from a shop to an office, or from an office to a shop, and internal alterations to a shop or an office that alter the load-bearing capacity of load-bearing components.

- The development does not involve an increase to the total floor area of the building.
- No more than 2000 square metres of floor area is changed from an office to a shop.
- If a change of building use, the new use must replace a former use carried out in accordance with a development consent.

Streetscape

- Each part of the structure is set back at least 4 metres from the front boundary or at least to the average of the minimum setbacks of any like structures on land each side of the subject property, whichever is the greater.
- Carports and garages facing a public street or accessway are not more than 6 metres or 50 percent of the frontage wide, whichever is the lesser.

Bulk and scale

- The ground floor level of the structure at any point is not more than 500 millimetres above natural ground level.
- The distance between the floor level and the underside of the eaves is not more than 2.7 metres.
- The roof openings are flush with the roof pitch.
- The next door property's main area of private open space, and any habitable rooms in that property, are not in shadow between 10 am and 3 pm on 21 June, as a result of the development.
- The external wall of each structure affected by the proposed development is at least 900 millimetres from the nearest side and the rear boundaries.

Dwellings and extensions—development on lots over 450 but less than 1000 square metres in area consisting of the erection of detached single storey dwellings (including single storey alterations and additions to detached single storey dwellings), or development ordinarily ancillary or incidental to detached single storey dwellings (including the erection of carports and garages).

Privacy and security

- Windows in a habitable room that are within 9 metres of, and allow an outlook to, a window of a habitable room in the neighbour's house:
 - are offset from the edge of one window to the nearest edge of the other by a distance of at least 0.5 metre, or
 - have sill heights of at least 1.7 metres above floor level, or
 - have fixed obscure glazing in any part of the window below 1.7 metres above floor level.

Open space and landscaping

- A minimum of 20 percent of the site is soft landscaped, that is, not hard surface.
- Not more than one-third of the front setback area is paved or sealed.

Streetscape

- Each part of the structure is set back at least 4 metres from the front boundary or at least to the average of the minimum setbacks of any like structures on land each side of the subject property, whichever is the greater.
- Carports and garages facing a public street or accessway are not more than 6 metres or 50 percent of the frontage wide, whichever is the lesser.

Bulk and scale

- The ground floor level of the structure at any point is not more than 500 millimetres above natural ground level.
- The distance between the floor level and the underside of the eaves is not more than 2.7 metres for a single storey house and 5.5 metres for a two storey house.
- The roof openings are flush with the roof pitch.
- The next door property's principal area of ground level private open space, and any habitable rooms in that property, are not in shadow between 10 am and 3 pm on 21 June, as a result of the development.
- The external wall of each structure affected by the proposed development is at least 900 millimetres from the nearest side and the rear boundaries.

Privacy and security

- Windows in a habitable room that are within 9 metres of, and allow an outlook to, a window of a habitable room in the neighbour's house:
 - are offset from the edge of one window to the nearest edge of the other by a distance of at least 0.5 metre, or
 - have sill heights of at least 1.7 metres above floor level, or
 - have fixed obscure glazing in any part of the window below 1.7 metres above floor level.

Open space and landscaping

- A minimum of 50 percent of the site is soft landscaped, that is, not hard surface.

Dwellings and extensions—development on lots 1000 square metres or more but not larger than 2500 square metres consisting of the erection of detached dwellings (including alterations and additions to detached dwellings), or development ordinarily ancillary or incidental to detached dwellings (including the erection of carports and garages).

Dwellings and extensions—development on lots larger than 2500 square metres and consisting of the erection of detached dwellings (including alterations and additions to detached dwellings), or development ordinarily ancillary or incidental to detached dwellings (including the erection of carports and garages).

Setbacks

- Each part of the structure is set back at least 20 metres from the front boundary.

Bulk and scale

- The ground floor level of the structure at any point is not more than 500 millimetres above natural ground level.
- The distance between the floor level and the underside of the eaves is not more than 2.7 metres for a single storey house and 5.5 metres for a two storey house.
- The roof openings are flush with the roof pitch.
- The external wall of each structure affected by the proposed development is at least 20 metres from the nearest side and the rear boundaries.

Streetscape

- The pool will not be between the dwelling and front boundary.

Bulk and scale

- All coping or decking around the pool is not more than 500 millimetres above the natural ground level.
- The pool is at least 1.5 metres from the nearest side and the rear boundaries.

Privacy and security

- The noise level of any filtration equipment or pumps does not exceed 5 dBA above the ambient background level measured at the property boundary.

Swimming pools—development for the purpose of swimming pools on lots over 450 square metres in area if the pool will be ordinarily ancillary to a dwelling occupied for private use only.

Installation and construction

- The installation and construction of the pool complies, where relevant, with:
 - AS/NZS 1838:1994—*Swimming Pools—Premoulded fibre-reinforced plastics—Design and fabrication* and AS/NZS 1839:1994—*Swimming Pools—Premoulded fibre-reinforced plastics—Installation, or*
 - AS 2783-1992—*Use of reinforced concrete for small swimming pools.*

The pool and surrounding structures

- The pool and surrounding structures comply with AS 1926.2-1995—*Swimming pool safety—Location of fencing for private swimming pools.*

Temporary buildings—the erection of a building and its use for a period not exceeding 5 years specified in the application for a complying development certificate, being a building that is not used either for residential purposes or for the storage or handling of inflammable materials.

Height

- Maximum height of the building is 1 storey.

Setbacks

- Building is set back from every boundary of the lot by a minimum of 3 metres.

Setbacks

- The structure is set back from every boundary of the lot by a minimum of 20 metres.
- The structure is clear from power lines in accordance with the requirements of the relevant electricity authority.

Windmills—the erection of a windmill on land within Zone No 1 (a) only.

Construction

- The structure is free standing and not relying on other structures for support.