

# Merriwa Local Environmental Plan 1992

[1992-229]



New South Wales

## Status Information

### Currency of version

Repealed version for 4 January 2013 to 22 December 2013 (accessed 18 July 2024 at 6:31)

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The plan was repealed by cl 1.8 (1) of the [Upper Hunter Local Environmental Plan 2013 \(756\)](#) (LW 23.12.2013) with effect from 23.12.2013.

### 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 23 December 2013

# Merriwa Local Environmental Plan 1992



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# Merriwa Local Environmental Plan 1992



New South Wales

## Part 1 Preliminary

### 1 Name of plan

This plan may be cited as *Merriwa Local Environmental Plan 1992*.

### 2 Aims, objectives etc

(1) 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 Merriwa by protecting, enhancing or conserving:
  - (i) prime crop and pasture land,
  - (ii) timber, minerals, soil, water and other natural resources, and
  - (iii) the land's environmental heritage, and
- (b) to consolidate and update the existing planning controls in the Shire of Merriwa, and
- (c) to meet the requirements of the *Hunter Regional Environmental Plan 1989* and *Hunter Regional Environmental Plan 1989 (Heritage)*.

(2) The particular objectives, policies and strategies relating to this plan are set out opposite the respective zones in the Table to clause 9.

### 3 Land to which plan applies

This plan applies to all land within the Shire of Merriwa, as indicated on the map.

### 4 Relationship to other environmental planning instruments

This plan repeals:

- (a) *Interim Development Order No 1—Shire of Merriwa*,
- (b) *Merriwa Local Environmental Plan No 1*,

- (c) *Merriwa Local Environmental Plan No 2*, and
- (d) Such other environmental planning instruments as, immediately before the appointed day, applied to the land to which this plan applies, but only to the extent to which those instruments applied to that land.

## 5 Interpretation

- (1) In this plan:

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

- (a) make structural changes to the outside of the heritage item, building or work, or
- (b) make non-structural changes to the detail, fabric, finish or appearance of the outside of the heritage item, building or work other than changes that maintain 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 used for the commercial boarding, breeding, keeping or training of animals and includes a riding school and veterinary clinic.

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

**arterial road** means:

- (a) an existing road indicted on the map by heavy broken black lines, and
- (b) existing classified Main Roads Nos 62, 209, 214, 358, 598 and 618.

**Council** means the Council of the Shire of Merriwa.

**demolition**, in relation to a heritage item or to a building, work, relic or place within a heritage conservation area means the damaging, defacing, destruction, pulling down or removal of the heritage item, building work or relic, on the damaging or defacing of the place, in whole or in part.

**dual occupancy** means a building containing 2 attached dwellings.

**existing holding** means:

- (a) except as provided by paragraph (b)—land taking the form of the area of a lot as it was at 18 April, 1975, or
- (b) where as at 18 April, 1975, a person owned 2 or more adjoining or adjacent allotments of land—land taking the form of the aggregation of those allotments as they were at 18 April, 1975,

and includes such land from which part has been excised for a public purpose or for the purposes of a boundary adjustment after that date.

**flood liable land** means:

- (a) either land within the township of Merriwa or the villages of Cassilis and Ulan which is affected by flood as indicated on a map held in an office of Council, and
- (b) land affected by the flood of 1955.

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

**heritage conservation area** means the land edged heavy black and marked "conservation area" on the map.

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

**intensive animal husbandry establishment** means a building or place in which or on which cattle, sheep, goats, pigs, poultry or other livestock are held and nurtured, either wholly or predominantly, at times other than just during periods of drought, flood or other natural hazards, by a feeding method other than natural grazing, 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.

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

**professional consulting rooms** means a room or a number of rooms forming either the whole of or part of, or attached to or within the curtilage of, a dwelling-house and used by not more than one legally qualified medical practitioner or by not more than one dentist within the meaning of the *Dentists Act 1989*, or by not more than one health care professional, who practises therein the profession of medicine, dentistry or health care, respectively, and who employs not more than one employee in connection with that practice.

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

**the map** means the series of maps marked "Merriwa Local Environmental Plan 1992" deposited in the office of the Council, as amended by the maps (or, if any sheets of maps are specified, by the specified sheets of the maps) marked as follows and so deposited:

**the RTA** means the Roads and Traffic Authority of New South Wales.

- (2) In this plan, a reference to a building, place or work used for a purpose includes a reference to a building, place or work intended to be used for the purpose.

## 6 Model provisions

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

(a) the definitions of **arterial road**, **map** and **professional consulting rooms** in clause 4 (1) and,

(b) clauses 15, 29 and 34,

are adopted for the purposes of this plan.

## 7 Consent authority

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

## Part 2 General restrictions on development of land

### 8 Zones indicated on the map

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

Zone No 1 (a)—(General Rural Zone)—coloured light brown and lettered "1 (a)".

Zone No 1 (c)—(Rural Small Holdings Zone)—coloured light brown, with red edging and lettered "1 (c)".

Zone No 1 (d)—(Rural Retreat Holdings Zone)—coloured light brown, with red edging and lettered "1 (d))".

Zone No 1 (f)—(Rural Forestry Zone)—coloured light brown with red edging and lettered "1 (f)".

Zone No 2 (a)—(Residential 'A' Zone)—coloured light scarlet and lettered "2 (a)".

Zone No 2 (v)—(Village Zone)—uncoloured with red edging and lettered "V".

Zone No 3 (a)—(General Business Zone)—coloured light blue and lettered "3 (a)".

Zone No 4 (a)—(Industrial Zone)—coloured purple and lettered “4 (a)”.

Zone No 8 (a)—(National Parks and Nature Reserve Zone)—uncoloured with green edging 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 purposes (if any) for which:
  - (a) development may be carried out without development consent,
  - (b) development may be carried only with development consent,
  - (c) development is prohibited,are specified under headings “Without 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 development is consistent with the objectives of the zone within which the development is proposed to be carried out.

Table

### **Zone No 1 (a) General Rural Zone**

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

The objectives of this zone are:

- (a) to encourage the productive and efficient use of land for agricultural purposes,
- (b) to prevent inappropriate development of prime crop and pasture land for purposes other than agriculture,
- (c) to protect, conserve and enhance the natural and scenic resources of the Shire,
- (d) to control subdivision of land having regard to the efficient use of land for the purposes of agriculture, and
- (e) to ensure that the type and intensity of development is appropriate, having regard to the characteristics of the land, the rural environment

and the cost of providing services and amenities.

## **2 Without consent**

Agriculture (other than intensive animal husbandry establishments); forestry.

## **3 Only with development consent**

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

## **4 Prohibited**

Advertising structures (other than as permitted by clause 33 of the *Environmental Planning and Assessment Model Provisions 1980*); boarding houses; commercial premises; industries (other than rural industries, home industries or extractive industries); motor showrooms; residential flat buildings; shops (other than general stores).

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

### **1 Objectives of zone**

The objectives of this zone are:

- (a) to promote the development of land for rural residential development,
- (b) to encourage a type and intensity of development that does not create unreasonable or uneconomic demand for the provision of public amenities, or the extension of services, including road access, and
- (c) to maximise housing choice.

## **2 Without consent**

Agriculture (other than intensive animal husbandry establishments); forestry.

## **3 Only with development consent**

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

## **4 Prohibited**

Advertising structures (other than as permitted by clause 33 of the *Environmental Planning and Assessment Model Provisions 1980*); boarding houses; caravan parks; commercial premises; extractive industries; hotels; industries (other than rural industries or home industries); residential flat buildings; shops (other than general stores).

## **Zone No 1 (d) Rural Retreat Holdings Zone**

### **1 Objectives of Zone**

The objectives of this zone are:

- (a) to provide land for use as rural retreats and hobby farms, in close proximity to the Merriwa urban area, and
- (b) to maximise housing and lifestyle choices which do not create unreasonable or uneconomic demand for the provision or extension of public amenities or services.

### **2 Without consent**

Agriculture (other than intensive animal husbandry establishments); forestry.

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

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

### **4 Prohibited**

Advertising structures (other than as permitted by clause 33 of the *Environmental Planning and Assessment Model Provisions 1980*); boarding houses; caravan parks; commercial premises; extractive industries; hotels; industries (other than rural industries or home industries); residential flat buildings; shops (other than general stores).

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

### **1 Objectives of Zone**

The objectives of this zone are to identify and recognise State Forests and to provide for their continued management under the *Forestry Act 1916*.

### **2 Without consent**

Forestry.

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

Public utilities; camping areas; communication facilities; extractive industries; mines; picnic areas; roads.

## **4 Prohibited**

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

### **Zone No 2 (a) Residential 'A' Zone**

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

The objectives of this zone are:

- (a) to facilitate the provision of a range of residential accommodation appropriate to the needs of the community, and
- (b) to provide for other non-residential uses which may appropriately be located within a residential zone whilst maintaining residential amenity.

#### **2 Without consent**

Nil.

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

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

## **4 Prohibited**

Abattoirs; advertising structures (other than as permitted by clause 33 of the *Environmental Planning and Assessment Model Provisions 1980*); animal boarding or training establishments; commercial premises; extractive industries; industries (other than home industries); junk yards; liquid fuel depots; motor showrooms; sawmills; service stations; shops (other than general stores); stock and sale yards; transport terminals; warehouses.

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

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

The objective of this zone is to promote development in existing villages in a manner which is compatible with their urban function.

#### **2 Without consent**

Nil.

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

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

#### **4 Prohibited**

Abattoirs; animal boarding or training establishments; extractive industries; junk yards; mines; offensive or hazardous industries.

### **Zone No 3 (a) General Business Zone**

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

The objectives of this zone are:

- (a) to encourage the development and expansion of business activities which will contribute to the economic growth and employment opportunities within the Shire, and
- (b) to maintain the existing character of the Merriwa business centre whilst enabling a wide range of land uses that are associated with, ancillary to, or supportive of, the functions of the existing business centre.

#### **2 Without consent**

Nil.

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

Any purpose other than a purpose included in item 4.

#### **4 Prohibited**

Boarding houses; caravan parks; dual occupancies (other than those used in conjunction with a commercial use permitted by item 3); dwellings (other than those used in conjunction with a commercial use permitted by item 3); extractive industries; gas holders; generating works; junk yards; liquid fuel depots; mines; offensive and hazardous industries; residential flat buildings (other than those used in conjunction with a commercial use permitted by item 3); stock and sale yards.

### **Zone No 4 (a) Industrial Zone**

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

The objectives of this zone are:

- (a) to encourage development of land for the purpose of industry which will contribute to economic growth and employment opportunities within the Shire,

- (b) to enable certain other forms of development compatible with or ancillary to the industrial use of the land, and
- (c) to provide opportunities for non-industrial commercial activities that may reasonably be located in an industrial zone.

## **2 Without consent**

Utility installations.

## **3 Only with development consent**

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

## **4 Prohibited**

Boarding houses; caravan parks; duplexes; dwelling-houses (other than those used in conjunction with and situated on the same land as an industry); extractive industries; hospitals; institutions; mines; motels; residential flat buildings.

## **Zone No 8 (a) National Parks and Nature Reserve Zone**

### **1 Objectives of zone**

The objectives of this zone are to identify and recognise existing national parks and nature reserves and to provide for their continued management under the *National Parks and Wildlife Act 1974*.

## **2 Without consent**

- (a) In respect of land reserved or dedicated under the *National Parks and Wildlife Act 1974*—any purpose authorised by that Act or any purpose ancillary or incidental to such purpose (other than a purpose include in item 3).
- (b) In respect of any other land—nil.

## **3 Only with development consent**

Recreation establishments; tourist facilities.

## **4 Prohibited**

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

## **Part 3 Special provisions**

### **10 General consideration for development within rural zone**

- (1) The Council shall not consent to an application to carry out development on land within Zone No 1 (a), 1 (c) or 1 (d) unless it has made an assessment of that development in relation to the following general principles:
- (a) the development should be generally compatible with the suitability and capability of the land on which it is to be carried out, as indicated on maps prepared by the Department of Agriculture, and the Soil Conservation Service of the New South Wales, which are deposited in an office of the Council,
  - (b) the development should not materially reduce the agricultural production of the land on which it is to be carried out, or of the adjoining land,
  - (c) the development should be of a type compatible with the maintenance and enhancement, as far as practicable, of the existing rural and scenic character of the Shire,
  - (d) the development should not adversely affect the future recovery of known or prospective areas of valuable deposits of minerals, coal, petroleum, sand, gravel or other extractive materials,
  - (e) the development should not have the possible effect of creating demands for unreasonable or uneconomic provision or extension of services by the Council.

- (2) Subclause (1) does not apply to development being:

- (a) a minor 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 or dual occupancy on an allotment of land created in accordance with this plan and that the Council is satisfied was created for the purpose of a dwelling or dwellings.

### **11 Subdivision of land generally**

- (1) A person may subdivide land to which this plan applies but only with the consent of the Council.
- (2) The Council must not consent to the subdivision of land within Zone No 1 (a), 1 (c) or 1 (d) unless:
  - (a) the Council is satisfied as to the primary purpose for which each allotment to be created by the subdivision will be used, and

- (b) in respect of any proposed allotment which the Council is satisfied will be used primarily for the purposes of a dwelling-house, the Council is also satisfied as to the approximate location on the land at which the dwelling-house will be erected.

## **12 Subdivision of rural land**

- (1) Land within Zone No 1 (a) shall not be subdivided unless each allotment to be created has an area of not less than 100 hectares.
- (2) Notwithstanding subclause (1), an allotment of land having an area of less than 100 hectares but not less than 10 hectares may be created within Zone No 1 (a) where the Council is satisfied that the allotment will be used primarily for the purposes of agriculture.
- (3) Notwithstanding subclause (1), an allotment of land having an area of less than 100 hectares may be created within Zone No 1 (a) where the allotment is intended to be used for a permissible purpose other than agriculture, forestry, dual occupancy or a dwelling-house (not being a dwelling-house ancillary to the permissible purpose) if:
  - (a) none of the land the subject of the application is prime crop and pasture land,
  - (b) the area of each allotment to be created by the subdivision is appropriate having regard to the purpose for which the Council is satisfied it is being created, and
  - (c) no other land in the locality could reasonably be used for that purpose.
- (4) Land within Zone No 1 (c) shall not be subdivided unless:
  - (a) each separate allotment thereby created has an area of 10,000 square metres or more,
  - (b) arrangements satisfactory to the Council have been made for the provision of water and drainage services and for the disposal of sewage from or on the land, and
  - (c) the land capability (including soil resources and soil stability), natural constraints and hazards of the land to be subdivided have been assessed by Council in relation to the density of the proposed allotments.
- (5) Land within Zone No 1 (d) shall not be subdivided unless:
  - (a) the minimum size of the allotments created is not less than 5 hectares,
  - (b) arrangements satisfactory to the Council have been made for the provision of water and drainage services and for the disposal of sewage from or on the land, and
  - (c) the land capability (including soil resources and soil stability), natural constraints and hazards of the land to be subdivided have been assessed by Council in

relation to the density of the proposed allotments.

- (6) This clause does not restrict or prohibit the subdivision of land with Zone No 1 (a), 1 (c) or 1 (d) for the purpose of opening a public road.

### **13 Subdivision of land in Zone No 2 (a) or 2 (v)**

A person shall not subdivide land within Zone No 2 (a) or 2 (v) to create an allotment that the Council is satisfied will be used for the purposes of a dwelling-house unless the allotment has an area of 750 square metres or more.

### **14 Dwelling-houses on rural land**

- (1) Except as provided by subclause (2) or (3), one but not more than one dwelling may be erected on land within Zone No 1 (a) if the land:
- (a) has an area of not less than 100 hectares, or
  - (b) comprises the whole of a vacant existing holding.
- (2) In addition to a dwelling-house permitted by subclause (1), one additional dwelling-house may, with the consent of Council, be erected where that additional dwelling-house is or will be actually occupied by a person employed or engaged by the owner of the land in the actual use of the land for the purposes of agriculture.
- (3) A dwelling-house may be erected on a allotment of land referred to in clause 12 (2) if:
- (a) the Council is satisfied that use of the dwelling-house will be ancillary to use of the land for agricultural purposes,
  - (b) the agricultural landuse is established and has been in operation for a period of 2 years or more, and
  - (c) the applicant has satisfied the Council of the need to establish a dwelling upon the subject allotment.
- (4) A dwelling-house may be erected on an allotment of land created by a subdivision referred to in clause 12 (3) where the use of the dwelling-house is ancillary to the purpose for which the allotment is used and the use is established.
- (5) Nothing in this clause shall prevent the erection of a dwelling-house on land on which another dwelling-house is erected where the additional dwelling-house to be erected is intended to replace the original dwelling-house and is not occupied until the original dwelling-house is demolished or its occupation has permanently ceased.
- (6) A dwelling-house shall not be erected on an allotment of land within Zone No 1 (c) unless the allotment has an area of 10,000 square metres or more.
- (7) A person shall not erect more than one dwelling house for each of allotment of land

created by a subdivision within Zone No 1 (d).

## **15 Advertising of certain applications**

- (1) The provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply in respect of:
  - (a) development for the purposes of residential flat buildings, hospitals, places of public worship, educational establishments or rural industries, and
  - (b) development (other than designated development) for any other purpose that the Council determines should require advertising,

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

## **16 Conversion of building to create a dual occupancy**

- (1) This clause applies to land within Zone No 1 (a), 1 (c), 1 (d), 2 (a) or 2 (v).
- (2) A person may, with the consent of the Council, alter or add to a dwelling-house on land to which this clause applies so as to create a dual occupancy.
- (3) The Council shall not consent as referred to in subclause (2) unless:
  - (a) the area of the allotment on which the dwelling-house is erected is not less than 750 square metres,
  - (b) the floor space ratio of the dwelling-house, as altered or added to, is not greater than:
    - (i) the floor space ratio of the dwelling-house before it was altered or added to, or
    - (ii) 0.5:1,whichever is the greater, and
  - (c) arrangements satisfactory to the Council have been made for the provision of a water supply to each dwelling and for the disposal of sewage and stormwater drainage from each building.
- (4) If 2 dwellings are, as a consequence of development carried out in accordance with this clause, situated on an allotment of land within Zone no 1 (a), 1 (c) or 1 (d), the separate occupation of the proposed lots illustrated by a strata plan relating to those dwellings is prohibited.

## **17 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, or
    - (ii) the emission of smoke or dust from the proposed development, or
    - (iii) the nature, volume or frequency of vehicles using the arterial road to gain access to the proposed development.
- (2) The Council shall not consent to the carrying out of development on land within Zone No 1 (a) for any purpose listed in Schedule 2 if carrying out that development will involve vehicular access to an arterial road or 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 unless the application has been assessed having regard to:
- (a) the nature, scale and function of the buildings (if any),
  - (b) the minimisation of distraction to drivers using the road,
  - (c) the maximisation of sight distances for drivers using the roads, and
  - (d) the principle that buildings should be sited and designed to maintain the rural character of the locality.

## **18 Land subject to bush fires**

In respect of any development application the Council shall take into consideration the likelihood of the development being affected by bush fire or affecting adjoining lands in the case of bush fire and may attach conditions to a development consent which, in the opinion of Council, will reduce the effect and spread of bush fire.

## **19 Flood liable land**

Notwithstanding any other provision of this plan, the Council shall not grant consent to the carrying out of any development on flood liable land, unless it has made an assessment of:

- (a) the effect of the proposed development on the flow of flood waters on that land or on land in its immediate vicinity,
- (b) the safety of the proposed development in time of flood,
- (c) whether the proposed development involves any risk to life, human safety or private property in time of flood,

- (d) whether that the floor of any dwelling-house or other habitable building on the land will be at least 500 millimetres above the highest known flood in the vicinity, and
- (e) whether adequate measures have been or will be taken to offset the likely effects of flooding on the development concerned.

## **20 Drainage, parking and roads etc**

Development may be carried out on land within any zone for the purposes of public roads, stormwater drainage, passive recreation areas and public parking:

- (a) where the development is to be carried out by the Council or a public authority, without the consent of the Council,
- (b) in any other case, with the consent of the Council.

## **Part 4 Heritage provisions**

### **21 Heritage aims and objectives**

The aims and objectives of this Part are:

- (a) to conserve the environmental heritage of the land to which this plan applies,
- (b) to integrate heritage conservation into the planning and development control processes,
- (c) to provide for public involvement in the matters relating to the conservation of the area's environmental heritage, and
- (d) to ensure that new development is undertaken in a manner that is sympathetic to, and does not detract from, the heritage significance of items and their settings, as well as streetscapes and landscapes and the distinctive character that they impart to the land to which this plan applies.

### **22 Heritage items**

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

- (f) damage any tree on land on which the building, work or relic is situated or on the land which comprises the place, or
  - (g) make structural changes to the interior of a building or work listed, 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 of 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*).

## **23 Heritage conservation areas**

- (1) A person shall not, in respect of a heritage conservation area:
  - (a) demolish or alter a building or work within the area,
  - (b) damage or move a relic within the area,
  - (c) excavate for the purpose of exposing a relic within the area,
  - (d) damage or despoil a place within the area,
  - (e) erect a building on or subdivide land within the area,except with the consent of the Council.
- (2) The Council shall not grant consent to an application required by this clause unless it has taken into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage conservation area.
- (3) The Council shall not grant consent to an application required by this clause, being an application to erect a new building or to alter an existing building, unless the Council has made an assessment of:
  - (a) the pitch and form of the roof,
  - (b) the style, size, proportion and position of the openings for windows and doors, and
  - (c) whether the colour, texture, style, size and type of finish of the materials to be used on the exterior of the building are compatible with materials used in the existing buildings in the heritage conservation area.

## **24 Development in the vicinity of heritage items**

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

## **25 Heritage advertisements**

(1) Except as provided by this clause, the provisions of sections 84, 85, 87 (1) and 90 of the Act apply to and in respect of:

- (a) the demolition of a heritage item,
- (b) the demolition of a building, work, relic or place within a heritage conservation area, and
- (c) the use of a building or land for a purpose which, but for clause 26, would be prohibited under this plan,

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

(2), (3) (Repealed)

(4) This clause does not apply to the partial demolition of a heritage item or of a building or work within a heritage conservation area if, in the opinion of the Council, the partial demolition will be of a minor nature and will not adversely affect the heritage significance of the item, building or work in relation to the environmental heritage of the land to which this plan applies.

## **26 Conservation incentives**

(1) Nothing in this plan prevents the Council from granting consent to an application for:

- (a) the use, for any purpose, of a building that is a heritage item or the land on which the building is erected, or
- (b) the use, for any purpose, of a building within a heritage conservation area or of the land on which the building is erected,

if it is satisfied that:

- (c) the proposed use would have little or no adverse effect on the amenity of the area, and
- (d) the conservation of the building depends on the Council granting consent as provided by this clause.

(2) When considering an application for consent to the erection of a building on land on which there is situated a building which is a heritage item or on land within a heritage

conservation area, the Council may:

- (a) for the purpose of determining the floor space ratio, and
- (b) for the purpose of determining the number of parking spaces to be provided on the site, exclude from its calculation of the floor space of the buildings erected on the land the floor space of the building, but only if the Council is satisfied that preservation of the building depends upon the Council making the exclusion.

## Schedule 1

(Clause 5)

| <b>Heritage item</b>    | <b>Property description</b>   | <b>Rates assessment</b> |
|-------------------------|---|-------------------------|
| FITZROY HOTEL           | Cnr Bow & Bettington Streets, Merriwa<br>Lot 1, DP 730567           | 658                     |
| ROYAL HOTEL             | Cnr Bettington & Vennacher Streets, Merriwa<br>Part Lot 1,          | 668                     |
| ASTROS THEATRE          | Bettington Street, Merriwa<br>Section 6<br>Lot 171, DP 554911       | 663                     |
| COTTAGE MUSEUM          | Bettington Street, Merriwa<br>Part Lot C, DP 418098                 | 658.1                   |
| ANGLICAN CEMETERY       | Cnr Bow & Mackenzie Streets, Merriwa<br>Section 10, Lot 1           | 658.1                   |
| ANGLICAN CHURCH         | Bow Street, Merriwa<br>Section 10 Lot 2                             | 658.1                   |
| ANGLICAN RECTORY        | Gooch Street, Merriwa<br>Lot 310, DP 619556                         | 789.002                 |
| SCHOOL OF ARTS          | Bow Street, Merriwa<br>Section 7, Lot 13                            | 705                     |
| CATH. PRESBYTERY        | Vennacher Street, Merriwa<br>Section 1, Lot 11                      | 983                     |
| ST ANNE'S CONVENT       | Macartney Street, Merriwa<br>Section 4, Lots 3 and 10               | 836                     |
| CATHOLIC CHURCH         | MaCartney Street, Merriwa<br>Section 4, Lots 3 and 10               | 836                     |
| CULLINGRAL GROUP        | Cullingral Road, Merriwa<br>Portion 16, Parish of Watt              | 1349                    |
| HEAD MASTER'S RESIDENCE | Mackenzie Street, Merriwa<br>Section 10 Lot 16, Part Lots 15 and 17 | 868                     |

|                               |   |       |
|-------------------------------|---|-------|
| FORMER CBC BANK               | Bettington Street, Merriwa<br>Section 2 Part Lot 1  | 626   |
| COURT HOUSE                   | Vennacher Street, Merriwa<br>Section 6 Lot 4 and Lot 11<br>DP 580413                                      | 982.1 |
| CAMPBELLS STORE               | Bettington Street, Merriwa<br>Lot 1, DP 746053  | 667.1 |
| BRINDLEY PK HOMESTEAD         | Willow Tree Road,<br>Part Lots 6 and 7 DP 30953 Parish of Howard<br>Lot 1, D.P. 606302, Parish of Coulson | 613.5 |
| TERRAGONG HOMESTEAD           | Willow Tree Road,<br>Lots 3 and 4 FP 328753 and Lot 1, FP 328754,<br>Parish of Howard                     | 308.1 |
| ROYAL HOTEL CASILLIS          | Buccleugh Street, Casillis<br>Section 1, Lot 22, Part Lots 21, 39 and 40                                  | 1281  |
| COURT HOUSE<br>POLICE STATION | Branksome Street, Casillis<br>Lots 47 and 8   | 1281  |
| POLICE RESIDENCE              | Branksome Street, Casillis<br>Section 1, Lots 47 and 8  | 1218  |
| FORMER STORE                  | Branksome Street, Casillis<br>Section 2, Lots 51 and 2  | 1220  |
| LLANGOLLEN                    | Llangollen Road, Cassilis<br>Portion 3, Parish of Borambil  | 18    |
| FORMER CHINESE EMPORIUM       | Branksome Street, Cassilis<br>Section 1, Lot 51   | 1220  |
| YARRAWONGA                    | Rotherwood Road, Cassilis<br>Portion 4, Parish Bulga  | 215.1 |
| DALKEITH                      | Llangollen Road, Cassilis<br>Lot 1, DP 706361, Parish of Doulagunmala                                     | 217.1 |
| FARMHOUSE/STONE COTTAGE       | Merriwa Road, Casillis<br>Lot 4 DP 534129, Parish of Borambil   | 137   |
| HEADSTONES/GRAVES             | Scott Street, Casillis<br>Section 4, Lots 17 and 18.  | 1251  |
| ANGLICAN CHURCH               | Merriwa Road, Casillis<br>Lot 2, DP 534129, Parish of Borambil  | 135   |
| CASS. STATION HOMESTEAD       | Merriwa Road, Parish of Borambil Portion 80, Lot<br>7, DP 115018 and Part Lot 2, DP 233702                | 96    |

|                              |   |      |
|------------------------------|---|------|
| COLLAROY                     | Parish of Collaroy, Lot 10 DP 585330<br>Lot 10, DP 585330, Parish Portions 2, 3, 40 and<br>78 Parish of Tomimbil<br>Lot 1, DP 504363 and Lot 1, DP 570429<br>Parish of Borambil | 97.2 |
| MUNMURRA ROAD WOOLSHED       | Kuloo Road,<br>Portion 3, Parish of Borambil  | 18   |
| GRAVE OF PETER GEORGE        | Main Road, 209, East Gungah<br>Portion 16, Parish of Wickham  |      |
| FORMER OLD GREEN HILLS HOTEL | 214 Main Road, Turill<br>Portion 4, 27 and 8,<br>Parish of Bobadeen   | 58   |

## Schedule 2

(Clause 17 (2))

- Bulk stores.
- Caravan parks.
- Car repair stations.
- 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
- Saw mills.
- Service stations.
- Stock and sale yards.
- Transport terminals.
- Warehouses.