

# Murrumbidgee Local Environmental Plan 1994

[1994-684]



New South Wales

## Status Information

### Currency of version

Repealed version for 15 December 2008 to 22 August 2013 (accessed 18 July 2024 at 2:28)

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The plan was repealed by cl 1.8 (1) of the [Murrumbidgee Local Environmental Plan 2013 \(471\)](#) (LW 23.8.2013) with effect from 23.8.2013.

### 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 August 2013

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New South Wales

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# Murrumbidgee Local Environmental Plan 1994



New South Wales

## Part 1 Preliminary

### 1 Name of plan

This plan may be cited as *Murrumbidgee Local Environmental Plan 1994*.

### 2 Aims, objectives etc

The general aims of this plan are:

- (a) to encourage the proper management, development and conservation of natural and man-made resources within the Murrumbidgee area by protecting, enhancing and conserving:
  - (i) natural drainage lines,
  - (ii) prior streams,
  - (iii) prime crop and pasture land,
  - (iv) timber, minerals, soil, water and other natural resources,
  - (v) areas of significance for nature conservation,
  - (vi) areas of high scenic or recreational value,
  - (vii) places and buildings of archaeological or heritage significance, including aboriginal relics, and
  - (viii) the bed and banks of the Murrumbidgee River, and
  - (ix) waterways and associated wetlands for their fish and fish habitat values, and
- (b) to replace the existing planning controls with a single local environmental plan to help facilitate the growth and development of the Murrumbidgee Area in a manner which is consistent with the aims specified in paragraph (a) and which:
  - (i) minimises the cost to the community of fragmented and isolated development of rural land,

- (ii) facilitates the efficient and effective provision of amenities and services,
- (iii) facilitates a range of residential and employment opportunities in accordance with demand,
- (iv) facilitates farm adjustments,
- (v) ensures that the efficiency of arterial roads is not adversely affected by development on adjacent land, and
- (vi) provides for orderly development of tourist activities.

### 3 Land to which plan applies

This plan applies to all land within the Murrumbidgee local government area, as shown on the map, with the boundaries as indicated on the map.

### 4 Relationship to other environmental planning instruments

This plan repeals:

- (a) *Interim Development Order No 2—Shire of Murrumbidgee*,
- (b) *Murrumbidgee Local Environmental Plan No 1*,
- (c) *Murrumbidgee Local Environment Plan No 2*, and
- (d) such other deemed environmental planning instruments and local environmental plans as, immediately before the appointed day, applied to land to which this plan applies, but only to the extent to which they so applied.

### 5 Definitions

(1) In this plan:

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

**agriculture** means the use of land for any purpose of husbandry including horticulture, the keeping or breeding of livestock, poultry, or bees and the growing of fruit, vegetables and the like, but does not include the erection of ancillary dwellings.

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

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

**bank** means the limit of the bed of a river.

**bed**, in relation to a river, means the whole of the soil of the channel in which the river flows, including the portion which is alternatively covered and left bare as there may be an increase or diminution in the supply of water and which is adequate to contain it at its average or mean stage without reference to extraordinary freshets in the time of flood or to extreme drought.

**caravan park** means land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, placed or erected.

**Council** means the Council of Murrumbidgee.

**demolish** a heritage item means wholly or partly destroy or dismantle the heritage item.

**environmentally sensitive land** means land shown edged with broken lines and horizontally hatched with black lines on the map.

**existing holding** means:

- (a) except as provided by paragraph (b)—the area of a lot, portion or parcel of land as it was as at 7 September 1979, or
- (b) where, as at 7 September 1979, a person owned 2 or more adjoining or adjacent lots, portions or parcels of land—the aggregation of those lots, portions or parcels as they were on that day.

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

**heritage item** means a building, work, relic, tree or place described in Schedule 1.

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

**horticulture** means fruit farming and vegetable farming, and includes plant propagation, plant breeding, ornamental floriculture, landscape horticulture and turf farming.

**integrated housing development** means development that consists of:

- (a) the subdivision of land into 5 or more allotments each having an area of at least 232 square metres, and
- (b) the erection of a single dwelling-house on each of the allotments created by that subdivision.

**intensive livestock keeping establishment** means a building or place in which or on which fish, cattle, sheep, goats, poultry or other livestock are held for the purposes of breeding, boarding or nurturing by a feeding method other than natural grazing

and, without limiting the generality of the foregoing, includes:

- (a) feed lots,
- (b) piggeries,
- (c) poultry farms, and
- (d) fish farms (including farms cultivating crustaceans and oysters),

but does not include an animal boarding or training establishment or land used for the keeping of fish, livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of the land, and does not include short term feeding or feed lots operated during periods of declared drought or immediately following bushfire or flood.

**land degradation** means a process that results in a decline in the quality of land and adversely affects its potential for use.

**landforming** means earthworks associated with agriculture such as the process of adjusting or altering the natural formation or surface of land such as the construction of levees, drains, channels and dams.

**large villa unit** means a villa unit which has a gross floor area of more than 85 square metres.

**levee** means an earthwork or embankment which forms or is intended to form a structure to control the movement of natural flood water.

**medium villa unit** means a villa unit which has a gross floor area of not less than 55 square metres and not more than 85 square metres.

**natural drainage lines** means land shown reverse diagonally hatched with black lines on the map.

**potential archaeological site** means a site known to the Council to have archaeological potential.

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

**prior streams** means land shown vertically hatched with black lines on the map.

**recreation area** means:

- (a) a children's playground,
- (b) an area used for sporting activities or sporting facilities, or
- (c) an area used to provide facilities for recreational activities which promote the physical, cultural or intellectual welfare of persons within the community, being facilities provided by:
  - (i) a public authority, or
  - (ii) a body of persons associated for the purposes of the physical, cultural or intellectual welfare of persons within the community,

but does not include a racecourse or a showground.

**relic** means any deposit, object or material evidence relating to:

- (a) the use or settlement of the area of Murrumbidgee, not being Aboriginal habitation, which is more than 50 years old, or
- (b) Aboriginal habitation of the area of Murrumbidgee commencing before and continuing after its occupation by persons of European extraction, including human remains.

**sandhill vegetation clearing** means any manner of destruction of trees, shrubs or plants on land shown shaded on the map as sandhills and includes the cutting, felling, chaining, rolling, ringbarking, poisoning and burning of trees, shrubs or plants, but does not include destruction of noxious weeds or plants or trees that are dead or dangerous.

**small villa unit** means a villa unit which has a gross floor area of less than 55 square metres.

**the map** means the map marked "*Murrumbidgee Local Environmental Plan 1994*", as amended by the maps (or, if sheets of maps are specified, by the specified sheets of the maps) marked as follows:

**Editorial note—**

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

*Murrumbidgee Local Environmental Plan 1994 (Amendment No 1) (Sheets 1-9)*

*Murrumbidgee Local Environmental Plan 1994 (Amendment No 2) (Sheets 1-3)*

**the river** means the Murrumbidgee River.

**tree** includes a sapling, shrub and scrub, but does not include regrowth of *eucalyptus*



*camaldulensis* where that regrowth is less than 1.5 metres in height.

**vegetation management plan** means a plan which is prepared in accordance with guidelines issued by the Department of Planning for such plans and which is approved by the Department on Conservation and Land Management.

**villa unit** means a dwelling within a single storey building which has within its curtilage pedestrian access and open space at ground level for the exclusive use of the occupants of the dwelling.

**wetland** means land which forms a shallow water body when inundated cyclically, intermittently or permanently, being such inundation which determines the types and productivity of soils and the plant and animal communities.

- (2) In this plan, a reference to the destruction of a tree is a reference to the ringbarking, cutting down, felling, poisoning, topping, lopping, removing or other destruction or injury of a tree.
- (3) In this plan:
  - (a) a reference to a building or place used for a purpose includes a reference to a building or place intended to be used for the purpose,
  - (b) a reference to a map is a reference to a map deposited in the office of the Council, and
  - (c) a reference to land within a zone specified in the Table to clause 9 is a reference to land shown on the map in the manner identified in clause 8 as the means of identifying land of the zone so specified.
- (4) Notes in this plan do not form part of this plan.

## **6 Adoption of Model Provisions**

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

- (a) the definitions of **arterial road** and **map** in clause 4 (1), and
- (b) clauses 29, 34 and 35 (c),

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 Zones**

### **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)—edged heavy black and lettered “1 (a)”.

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

Zone No 1 (d) (Future Urban Zone)—edged heavy black and lettered “1 (d)”.

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

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

### **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, development (if any) which:
  - (a) may be carried out without development consent,
  - (b) may be carried out only with development consent, and
  - (c) is prohibited,are specified under the headings “Without development consent”, “Only with development consent” and “Prohibited”, respectively, appearing in the matter relating to the zone.
- (3) Except as otherwise provided by this plan, the Council shall not grant consent to the carrying out of development on land to which this plan applies unless the Council is of the opinion that the carrying out of the development is consistent with the objectives of the zone within which the development is proposed to be carried out.

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

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

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

- (a) protecting, enhancing and conserving:

- (i) natural drainage lines,
  - (ii) prior streams,
  - (iii) agricultural land in a manner which sustains its efficient and effective agricultural production potential,
  - (iv) soil stability by controlling and locating development in accordance with soil capability,
  - (v) forests of existing and potential commercial value for timber production,
  - (vi) valuable deposits of minerals, coal, petroleum and extractive materials by controlling the location of development for other purposes in order to ensure the efficient extraction of those deposits,
  - (vii) trees and other vegetation in environmentally sensitive areas where the conservation of the vegetation is significant to scenic amenity, recreation or natural wildlife habitat or is likely to control land degradation,
  - (viii) water resources for use in the public interest,
  - (ix) areas of significance for nature conservation, including areas with rare plants, wetlands and significant wildlife habitat, and
  - (x) places and buildings of archaeological or heritage significance, including Aboriginal relics and places,
- (b) preventing the unjustified development of prime crop and pasture land for purposes other than agriculture,
- (c) facilitating farm adjustments,
- (d) minimising the cost to the community of:
- (i) fragmented and isolated development of rural land, and
  - (ii) providing, extending and maintaining public amenities and services,
- (e) providing land for future urban development for, future rural residential development and for future development for other non-agricultural purposes, in accordance with the need for that development.

## **2 Without development consent**

Agriculture (other than animal boarding or training establishments, intensive livestock keeping establishments, landforming and sandhill vegetation clearing); exempt development; forestry in accordance with a vegetation management plan.

## **3 Only with development consent**

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

## **4 Prohibited**

Integrated housing development; motor showrooms; residential flat buildings; shops (other than general stores not exceeding 100 square metres in gross floor area); villa homes.

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

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

The objectives of this zone are to promote the development of land identified as suitable for:

- (a) rural residential or hobby farm development, or
- (b) the creation of small holdings to allow an attractive rural lifestyle on land that lacks commercial agricultural potential.

#### **2 Without development consent**

Agriculture (other than animal boarding and training establishments and intensive livestock keeping establishments); exempt development.

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

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

#### **4 Prohibited**

Boarding-houses; caravan parks; commercial premises; extractive industries; hotels; industries (other than rural industries); integrated housing development; intensive livestock keeping establishments; motels; motor showrooms; offensive and hazardous industries; refreshment rooms; residential flat buildings; shops (other than general stores not exceeding 100 square metres in gross floor area).

## **Zone No 1 (d) (Future Urban Zone)**

### **1 Objectives of zone**

The objectives of this zone are to identify land suitable for future urban use and to prevent premature development which constrains future land use options.

### **2 Without development consent**

Agriculture (other than animal boarding or training establishments and intensive livestock keeping establishments); exempt development.

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

Dwelling-houses and buildings ancillary to agriculture; forestry; home industries; home occupations; open space; retail plant nurseries; rural industries; utility installations (other than gas holders or generating works).

### **4 Prohibited**

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

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

### **1 Objectives of zone**

The objective of this zone is to permit the continuation and expansion of forestry and development for associated purposes.

### **2 Without development consent**

Agriculture (other than animal boarding or training establishments and intensive livestock keeping establishments); exempt development; forestry.

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

Nil.

### **4 Prohibited**

Any purpose other than a purpose included in item 2.

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

## **1 Objectives of zone**

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

## **2 Without development consent**

Exempt development.

## **3 Only with development consent**

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

## **4 Prohibited**

Extractive industries; integrated housing development; intensive livestock keeping establishments; mines; offensive and hazardous industries.

## **Part 3 Special provisions**

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

- (1) The Council shall not consent to an application to carry out development on land within Zone No 1 (a), 1 (c) or 1 (d) unless it has taken into consideration, if relevant, the effect of the carrying out of that development on:
  - (a) the present use of the land, the potential use of the land for the purposes of agriculture and the potential for sustained agricultural production of any of that land which is prime crop and pasture land,
  - (b) vegetation, timber production, land capability (including soil resources and soil stability) and water resources (including the quality and stability of watercourses and ground water storage and riparian rights),
  - (c) the future extraction of known valuable deposits of minerals, coal, petroleum, sand, gravel or other extractive materials and areas considered to be prospective for these materials,
  - (d) the protection of areas of significance for nature conservation or of high scenic or recreational value, and places and buildings of archaeological or heritage significance, including Aboriginal relics and places,
  - (e) the cost of providing, extending and maintaining public amenities and services to the development,
  - (f) future expansion of settlements in the locality, and
  - (g) where the land is within Zone No 1 (a) and within 400 metres of the bank of the

Murrumbidgee River, the effect of the development on the riparian lands of that river.

- (2) As well as the matters referred to in subclause (1), the Council shall take into consideration the relationship of the development to development on adjoining land and on other land in the locality.
- (3) Subclause (1) does not apply to development consisting of the erection of a dwelling-house on an allotment of land created in accordance with this plan for the purpose of a dwelling-house.

#### **10A What is exempt development and complying development?**

- (1) Development of minimal environmental impact listed as exempt development in Schedule 1 to *Development Control Plan No 2* as adopted by Council on 16 December 1999 is **exempt development**,
- (2) Development listed as complying development in Schedule 2 to *Development Control Plan No 2* as adopted by Council on 16 December 1999 is **complying development** only if:
  - (a) it is local development of a kind that can be carried out with consent on the land on which it is proposed, and
  - (b) it is not an existing use, as defined in section 106 of the Act.
- (3) Development is exempt or complying development only if it complies with development standards and other requirements applied to the development by *Development Control Plan No 2* as adopted by the Council on 16 December 1999.
- (4) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in *Development Control Plan No 2* adopted by the Council, as in force when the certificate is issued.

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

- (1) A person shall not subdivide land to which this plan applies except with the consent of the Council.
- (2) The Council shall not consent to an application to subdivide land within zone No 1 (a), 1 (c) or 1 (d) 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 house is intended to be erected on any allotment to be created by the subdivision and the approximate location of any such dwelling-house.

## **12 Subdivision for purpose of agriculture within Zone No 1 (a)**

- (1) The Council may consent to the creation of an allotment of any area within Zone No 1
  - (a) if the council is satisfied it is intended to be used for the purpose of agriculture.
  - (2) The Council shall not consent to the creation of an allotment within Zone No 1 (a) if the Council is satisfied it is intended to be used for the purpose of agriculture and there is a dwelling-house on the allotment, unless:
    - (a) the allotment is within the Coleambally Irrigation Area, has the benefit of a license to irrigate horticultural crops and has an area of at least 40 hectares, or
    - (b) the allotment has an area of 200 hectares or more.
- (3) (Repealed)

### **Note—**

Clause 9 of the [State Environmental Planning Policy \(Rural Lands\) 2008](#) also enables the subdivision of lots for the purposes of primary production.

## **13 Subdivision for other purposes within Zone No 1 (a)**

- (1) The Council shall not consent to an application to subdivide land within Zone No 1 (a) if any allotment to be created by the subdivision is, in the opinion of the Council, intended to be used primarily for purposes other than agriculture or a dwelling-house unless, in the opinion of the Council:
  - (a) none of the land the subject of the application is prime crop and pasture land, and
  - (b) the area of each allotment to be created by the subdivision is appropriate having regard to the purpose for which it is being created.
- (2) Nothing in subclause (1) prevents the Council from granting consent to an application to subdivide land within Zone No 1 (a) to create an allotment that, in the opinion of the Council, is intended to be used for a purpose other than agriculture or a dwelling-house if the Council is satisfied that:
  - (a) the purpose for which the allotment is to be used involves the supply of goods or services for which there is a demand in the locality,
  - (b) no other land in the locality could reasonably be used for that purpose, and
  - (c) the level of demand for the goods or services which are to be supplied from the allotment and the extent to which that allotment is proposed to be used to meet that demand justifies the creation of the allotment despite its agricultural value.



#### **14 Subdivision for purposes of dwelling-houses within Zone No 1 (c)**

- (1) The Council shall not consent to an application to subdivide land within Zone No 1 (c) unless:
  - (a) where provision is to be made for the off-site disposal of sewage, the area of each allotment to be created as a result of the subdivision is not less than 5000 square metres and arrangements satisfactory to the Council have been made for the provision of a permanent water supply to that land, or
  - (b) where no provision is to be made for off-site disposal of sewage:
    - (i) each allotment to be created as a result of the subdivision has an area of not less than 5000 square metres (with the average area of the lots being not less than 2 hectares),
    - (ii) arrangements satisfactory to the Council have been made for the provision of a permanent water supply to that land, and
    - (iii) the number of allotments having an area of less than 2 hectares which will be created as a result of the subdivision is not more than 65 per cent of the maximum number of allotments which could be created from that land without contravening subparagraph (i).
- (2) Nothing in subclause (1) (b) (i) prevents the Council from consenting to the subdivision of land within Zone No 1 (c) where the sizes of the allotments created are less than the areas required by that provision if it is satisfied that the individual allotments have adequate provision for effluent disposal.
- (3) If:
  - (a) land is to be provided and developed for the communal use of future owners of allotments within a subdivision of land referred to in subclause (1), and
  - (b) the Council is satisfied that the resultant development will enhance the amenity of the locality,then the area of the communal land may be included in calculating the average lot size of that subdivision.
- (4) The Council shall not grant consent to the subdivision of land within Zone No 1 (c) unless it has taken into consideration:
  - (a) the land capability (including soil resources and soil stability), natural constraints and hazards of the land to be subdivided in relation to the density of the allotments proposed to be created,
  - (b) the desirability of providing a range and mixture of allotment sizes,

(c) whether the design of each allotment to be created by the subdivision is satisfactory for the economic provision of services,

(d) the physical suitability of the land for on-site disposal of wastes, and

(e) the provisions of subclause (5).

(5) The Council shall not consent to the carrying out of development for the purpose of a dwelling on an allotment created within Zone No 1 (c) if that dwelling is located less than 150 metres from the boundary of land within Zone No 1 (a) unless, in the opinion of the Council, the development will not adversely affect the use of adjoining lands for agriculture.

#### **15 Subdivision of land within Zone No 1 (d)**

The Council may consent to the subdivision of land within Zone No 1 (d) if each allotment created by the subdivision is not less than 20 hectares in area and the Council is satisfied that the subdivision will complement future urban development.

#### **16 Subdivision of land within Zone No 2 (v)**

(1) The Council shall not consent to an application to subdivide land within Zone No 2 (v) to create an allotment which, in the opinion of the Council, is intended to be used for the purpose of a dwelling-house unless the allotment has an area of 600 square metres or more.

(2) Despite subclause (1), the Council may consent to a subdivision of land to which this clause applies that creates allotments having an area of less than 600 square metres if the allotments are, in the opinion of the Council, intended to be used for the erection of villa units in accordance with clause 19.

#### **17 Dwelling-houses within Zone No 1 (a)**

(1) In this clause, ***vacant land*** means land on which no dwelling-house is erected.

(2) The Council shall not consent to the erection of a dwelling-house on vacant land within Zone No 1 (a) unless:

(a) the land comprises:

(i) an existing holding,

(ii) an allotment that was, in the opinion of the Council, created in accordance with this plan for a purpose other than agriculture and the dwelling-house is ancillary and subsidiary to the present or intended development of that land,  
or

(iii) (Repealed)

- (iv) an allotment created in accordance with a consent granted before the appointed day, being an allotment on which a dwelling-house could have been lawfully erected immediately prior to the appointed day,
- (b) the land is situated in the Coleambally Irrigation Area, has the benefit of a licence to irrigate horticultural crops and has an area of not less than 40 hectares, or
- (c) the land has an area of 200 hectares or more.

**17A Dwelling entitlements on existing concessional lots**

The amendment of this plan by the *State Environmental Planning Policy (Rural Lands) 2008* does not affect any entitlement arising under a provision of this plan (as in force before that amendment) to erect a dwelling-house on a lot, if:

- (a) the lot was created before that commencement, or
- (b) development consent to the creation of the lot was applied for, or granted, before that commencement.

**18 Erection of additional dwelling-houses within Zone No 1 (a) or 1 (c)**

- (1) The Council may consent to the erection of one additional dwelling-house on land within Zone No 1 (a) or 1 (c) (or the alteration of an existing dwelling-house to create 2 dwellings) where:
  - (a) no additional access to a public road is required from the land,
  - (b) separate ownership of the land on which the additional dwelling is to be located could only be achieved by subdivision of the land,
  - (c) in the opinion of the Council, the dwelling to be erected or created on the land will not interfere with the purpose for which the land is being used,
  - (d) the land is not prime crop and pasture land,
  - (e) in the case of land within Zone No 1 (a), a dwelling-house could be erected on the land in accordance with clause 17 if the land were vacant, and
  - (f) in the case of land within Zone No 1 (c), the Council is satisfied that adequate provision is made for the disposal of effluent.
- (2) The Council shall not consent to the subdivision of land on which one additional dwelling is erected or created under this clause except in accordance with this plan.
- (3) The Council must not grant a consent pursuant to this clause that would result in more than two dwellings on one piece or parcel of land.
- (4) Despite the provisions of subclause (3), Council may consent to the erection of

additional dwellings on land situated in Zone No 1 (a) for the purpose of housing for rural workers, if the Council is of the opinion that the additional dwellings are necessary for effective and efficient management of intensive agricultural activities.

**19 Villa units within Zone No 2 (v)**

- (1) A person may, with the consent of the Council, carry out development for the purpose of a villa unit, not being integrated housing development, on land within Zone No 2 (v).
- (2) A person shall not carry out development for the purpose of a small, medium or large villa unit on land within a zone specified in Column 1 of the Table to this clause unless:
  - (a) the site area for the small, medium or large villa unit is not less than the site area specified in respect of a small, medium or large villa unit opposite that Zone in Column 2 of that Table, and
  - (b) there is provided in respect of the small, medium or large villa unit a landscaped area of not less than the area specified in respect of a small, medium or large villa unit opposite that Zone in Column 3 of the Table of this clause.

**Table**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
Zone	Minimum site area (in square metres) required for each:	Minimum landscaped area (in square metres) required for each:
	(a) large,	(a) large,
	(b) medium, and	(b) medium, and
	(c) small	(c) small
	villa unit	villa unit
	(a) 330	(a) 110
No 2 (v)	(b) 240	(b) 95
	(c) 170	(c) 70

**20 Development which must be advertised**

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

**21 Development along arterial roads**

- (1) The Council shall not consent to an application to carry out development on land

which has frontage to an arterial road unless:

- (a) access to that land is provided by a road other than the arterial road, wherever practicable, and
  - (b) in the opinion of the Council, the safety and efficiency of the arterial road will not be adversely affected by:
    - (i) the design of the access to the proposed development,
    - (ii) the emission of smoke or dust from the proposed development, or
    - (iii) the nature, volume or frequency of vehicles using the arterial road to gain access to the proposed development.
- (2) The Council shall not consent to an application to carry out development on land within Zone No 1 (a) or 1 (c) for any purpose listed in Schedule 3 if the development on the land for the purpose will have direct access to:
- (a) an arterial road, or
  - (b) a road connecting an arterial road where the access to that road is within 90 metres (measured along the road alignment of the connecting road) of the alignment of the arterial road.

## **22 Environmentally sensitive land**

- (1) The objectives of this clause are to provide protection for the native flora and fauna habitat in the Murrumbidgee local government area.
- (2) A person shall not carry out development on environmentally sensitive land for the purpose of:
  - (a) intensive livestock keeping establishments,
  - (b) junk yards,
  - (c) liquid fuel depots, or
  - (d) stock and sale yards.
- (3) A person shall not, except with the consent of the Council, cause the destruction of trees otherwise than in accordance with a vegetation management plan on:
  - (a) more than 1 hectare of environmentally sensitive land forming the whole or part of an existing holding, or
  - (b) more than 5 per cent of the area of an existing holding, where that 5 per cent comprises environmentally sensitive land,

whichever is less.

- (4) Subclause (3) does not apply to or in respect of protected land within the meaning of section 21AB of the *Soil Conservation Act 1938*.
- (5) A person shall not, except with the consent of the Council, carry out development on environmentally sensitive land for the purpose of:
  - (a) filling wetlands,
  - (b) draining wetlands,
  - (c) constructing levees, or
  - (d) sawmilling.
- (6) The Council shall not consent to an application made for the purpose of subclause (3) unless, in the opinion of the Council, the destruction of trees on the land will be carried out in a manner which, in respect of that land and adjacent land, minimises:
  - (a) the risk of soil erosion and other land degradation,
  - (b) the loss of scenic amenity, and
  - (c) the loss of important vegetation systems and natural wildlife habitats.

### **23 Natural drainage lines**

- (1) A person shall not carry out development on natural drainage lines for the purpose of:
  - (a) irrigation supply or drainage works,
  - (b) storage dams,
  - (c) roads or access ways, or
  - (d) buildings which, in the opinion of the Council, are liable to affect the drainage pattern,except with the consent of the Council.
- (2) The Council shall not consent to an application made for the purpose of this clause unless, in the opinion of the Council:
  - (a) the applicant can demonstrate that the development will not increase the flood hazard or the likelihood of flood damage to other properties or adversely affect them in any way during times of high rainfall,
  - (b) the development will not adversely affect the flow of water over the subject land,
  - (c) the development will not concentrate or divert water onto or from adjoining lands,

and

- (d) the development will not create a risk of pollution or contribute to water table accession.

#### **24 Prior streams**

- (1) A person shall not carry out development on land identified as prior streams for the purpose of:
  - (a) irrigation supply or drainage works,
  - (b) works that may, in the opinion of the Council, have an adverse affect on the water table due to leaching of nutrients, herbicides or insecticides or contribute to accession to the water table,
  - (c) works that involve the destruction of any trees,
  - (d) storage dams, or
  - (e) buildings,except with the consent of the Council.
- (2) The Council shall not consent to an application made for the purpose of this clause unless, in the opinion of the Council:
  - (a) the development will not cause soil erosion by wind or water,
  - (b) the development will not cause silt to enter the water ways,
  - (c) the development will not affect the tree and vegetation cover on the land,
  - (d) the development will not adversely affect the soil resources of the area of Murrumbidgee, and
  - (e) the development will not cause pollution or contribute to water table accession.

#### **25 Flood liable land**

- (1) A person shall not erect a building or carry out a work for any purpose on flood liable land except with the consent of the Council.
- (2) The Council shall not consent to the erection of a building or the carrying out of a work on flood liable land if the Council is satisfied that the development is likely:
  - (a) to impede the flow of flood water on that land or on adjoining land,
  - (b) to imperil the safety of persons on that land or on adjoining land in the event of those lands being inundated with flood water,

- (c) to aggravate the consequences of flood water flowing on that land or on adjoining land with regard to erosion, siltation and the destruction of vegetation, or
- (d) to have an adverse effect on the water table to that land or adjoining land.

## **26 Land subject to bushfire hazards**

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

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

## **27 Protection of heritage items and relics**

- (1) The following development may be carried out only with the consent of the Council:
  - (a) demolishing, defacing, damaging or moving a heritage item,
  - (b) altering a heritage item by making structural changes to its exterior,
  - (c) altering a heritage item 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,
  - (d) moving a relic, or excavating land for the purpose of discovering, exposing or moving a relic,
  - (e) erecting a building on, or subdividing land on which a heritage item is located.
- (2) Development consent is not required by this clause if the Council is of the opinion that the proposed development would not adversely affect the heritage significance of the heritage item.
- (3) When determining a development application required by this clause, the Council must take into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item.

### **Note—**

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



## **28 Development in the vicinity of heritage items or potential archaeological sites**

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

## **29 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 (and to the use of a building or land referred to in clause 31 for a purpose which, but for that clause, would be prohibited by this plan) in the same way as those provisions apply to designated development.

## **30 (Repealed)**

## **31 Conservation incentives**

- (1) The Council may grant consent to the use, for any purpose, of a building that is a heritage item, 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, and
  - (b) the conservation of the building depends on the granting of consent.
- (2) When considering an application for consent to erect a building on land on which a heritage item is located, the Council may, for the purpose of determining:
  - (a) the floor space ratio, and
  - (b) the number of parking spaces to be provided on the site,exclude the floor space of the building from its calculation of the floor space of the buildings erected on the land, but only if the Council is satisfied that the conservation of the building depends on it making the exclusion.

## **32 Development of known or potential archaeological sites**

- (1) The Council 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 Council 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.

### **33 Access**

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

### **34 Development along Murrumbidgee River**

- (1) Despite any other provisions of this plan, a person shall not, except with the consent of the Council, on land to which this plan applies:
  - (a) erect a building for any purpose on land within Zone No 1 (a), 1 (c) or 1 (d) within 400 metres of any bank of the river,
  - (b) destroy any tree (otherwise than in accordance with vegetation management plan) on land within 60 metres of any bank of the river,
  - (c) carry out development for any purpose on land within 20 metres of any bank of the river, or
  - (d) carry out development for the purpose of:
    - (i) a canal,

- (ii) a marina (including pontoons, jetties, piers or other structures) designed to provide a mooring or dry storage for one or more vessels used for any purpose, or
  - (iii) filling or extraction,

on land comprising the bed or any bank of the river.
- (2) The Council shall not consent to an application required by subclause (1) unless, in the opinion of the council, the destruction of the trees or the development of the land, and any subdivision of the land, will be carried out in a manner or have an effect which, in respect of that land and the adjacent land, minimises:
  - (a) the risk of soil erosion and other land degradation,
  - (b) the loss of scenic amenity, and
  - (c) the loss of important vegetation systems and natural wildlife habitats, including fish habitats.
- (3) The Council shall not consent to an application to erect a building on land comprising:
  - (a) a bed of the river, or
  - (b) land within Zone No 1 (a), 1 (c) or 1 (d) and being within 100 metres of any bank of the river,

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

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

### **35 Forestry**

- (1) This clause applies to land within a state forest, timber reserve or other Crown timber lands within the meaning of the [Forestry Act 1916](#).
- (2) Despite clauses 9 and 22, development may be carried out on land to which this clause applies without development consent:
  - (a) by the Forestry Commission, if the development is authorised under the [Forestry Act 1916](#), or
  - (b) by any person, if the development is authorised by an authority granted or issued by the Forestry Commission under that Act.

### 36 Advertising structures

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

### 37 Designated development on land within Zone No 1 (a)

Despite any other provision of this plan, designated development may be carried out on land within Zone No 1 (a) only with development consent.

## Schedule 1

(Clause 5 (1))

### Heritage items

Locality	Street	Description
Darlington Point	Darlington Street	Former Court House Group
Darlington Point		Tubbo Station Group
Darlington Point	Sturt Highway	The Homestead (formerly Kerarbury Station)
Darlington Point		Old Warrangesda Mission
Darlington Point		Waddi Creek Scarred Trees

## Schedule 2

(Clause 20)

### Development which must be advertised

Boarding-houses; hotels; motels; residential flat buildings.

Industries (other than rural industries) in Zone No 1 (a) or 1 (c).

Intensive livestock keeping.

Junk yards; liquid fuel depots; saw-mills; stock and sale yards.

Subdivisions of land within Zone No 1 (c) allowed by clause 14.

### **Schedule 3**

(Clause 21)

#### **Restricted development along arterial roads**

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  
Sawmills  
Service stations  
Stock and sale yards  
Transport terminals  
Warehouses