

Murray Local Environmental Plan 1989 (1990 EPI 3)

[1990-3]



New South Wales

Status Information

Currency of version

Repealed version for 28 January 2011 to 15 December 2011 (accessed 23 December 2024 at 16:39)

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The Plan was repealed by cl 1.8 (1) of the [Murray Local Environmental Plan 2011 \(682\)](#) (LW 16.12.2011) with effect from 16.12.2011.

Authorisation

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

File last modified 16 December 2011

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New South Wales

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Murray Local Environmental Plan 1989 (1990 EPI 3)



New South Wales

Part 1 Preliminary

1 Name of plan

This plan may be cited as *Murray Local Environmental Plan 1989*.

2 Aims, objectives etc

The general aims of this plan are:

- (a) to encourage the proper management, development and conservation of natural and man-made resources within the Shire of Murray by protecting, enhancing or conserving:
 - (i) prime crop and pasture land,
 - (ii) timber, minerals, soil, water and other natural resources,
 - (iii) areas of significance for nature conservation,
 - (iv) areas of high scenic or recreational value,
 - (v) places and buildings of archaeological or heritage significance, including aboriginal relics and places,
 - (vi) the bed and banks of the Edward, Murray and Wakool Rivers, and
 - (vi) the 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 growth and development of the Shire of Murray in a manner which is consistent with the aims specified in paragraph (a) and which:
 - (i) minimises the cost to the community of fragmented and isolated development of rural land,
 - (ii) facilitates the efficient and effective delivery of amenities and services,

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

3 Land to which plan applies

This plan applies to all land within the Shire of Murray, 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 Murray*, and
- (b) any other local environmental plan or deemed environmental planning instrument that, immediately before the appointed day, applied to the land to which this plan applies, but to the extent only to which that plan or instrument so applied to that land.

5 Definitions

(1) In this plan:

agriculture means:

- (a) horticulture, or
- (b) the use of land for any purpose of husbandry, the keeping or breeding of livestock (otherwise than by use of an intensive livestock keeping establishment), poultry or bees, and the growing of fruit, vegetables, cereals, fibre crops and the like.

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

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

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

veterinary clinic.

appointed day means the day 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 that portion thereof 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 droughts.

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

conservation area means the area of land shown bounded by heavy broken black edging and marked "Conservation Area" on the map.

Council means the Council of the Shire of Murray.

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

designated State public infrastructure means public facilities or services that are provided or financed by the State (or if provided or financed by the private sector, to the extent of any financial or in-kind contribution by the State) of the following kinds:

- (a) State and regional roads,
- (b) bus interchanges and bus lanes,
- (c) land required for regional open space,
- (d) land required for social infrastructure and facilities (such as land for schools, hospitals, emergency services and justice purposes).

environmentally sensitive land means land shown 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 at the appointed day, or
- (b) where, as at the appointed day, a person owned 2 or more adjoining or adjacent

lots, portions or parcels of land—the aggregation of 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 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, 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 cattle, sheep, goats, dog, cats, 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 farming (including crustaceans and oysters),

but does not include an animal boarding or training establishment or land used for the keeping of livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of the land, and does not include short term feeding or feedlots operated during periods of drought declaration.

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

- (a) situated on land shown in some significant manner on the map, and
- (b) described in Schedule 1.

mooring means a location or an apparatus (or both) whether water-based or land-based to which one vessel is attached.

mooring structure means a mooring capable of storing between 2 and 9 vessels and which does not have support facilities on nearby land.

multi-unit housing means development that comprises two or more dwellings, including (but not limited to) a residential flat building.

prime crop and pasture land means land within an area identified, on a map prepared by or on behalf of the Director-General of the Department of Agriculture and Fisheries, copies of which are deposited in an office of the Department of Agriculture and Fisheries and in the office of the Council, as Class 1, Class 2 or Class 3 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.

public utility infrastructure, in relation to an urban release area, includes infrastructure for any of the following:

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage.

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 the settlement (including aboriginal habitation) of the area of the Shire of Murray which is 50 or more years old.

river means:

- (a) the Edward, Murray or Wakool River, or
- (b) the Gulpa, Bullatale or Tuppal Creek,

and their respective tributaries and associated waterways (including related branches, creeks, lagoons, lakes and billabongs).

service industrial means an industry conducted in premises:

- (a) upon which machinery, equipment or materials are manufactured, brought, kept or exposed for sale, lease or hire, and
- (b) in which the processes carried on, the material used or stored, or machinery employed will not cause injury to or prejudicially affect the amenity of the location by reason of the appearance of the location by emission of noise, vibrations, odour, fumes, smoke, vapour, waste products or the presence of vermin, and
- (c) the establishment or the conduct of which will not impose an undue load on any existing services.

the map means the set of maps marked “*Murray Local Environmental Plan 1989*”, as amended by the maps marked as follows:

Editorial note—

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

Murray Local Environmental Plan 1989 (Amendment No 1)

Murray Local Environmental Plan 1989 (Amendment No 2)

Murray Local Environmental Plan 1989 Amendment No 4

Murray Local Environmental Plan 1989 (Amendment No 5) (Sheet 1)

Murray Local Environmental Plan 1989 (Amendment No 7)

Murray Local Environmental Plan 1989 (Amendment No 10)

Murray Local Environmental Plan 1989 (Amendment No 12)

Murray Local Environmental Plan 1989 (Amendment No 13)

Murray Local Environmental Plan 1989 (Amendment No 15) (Sheet 1)

Murray Local Environmental Plan 1989 (Amendment No 16) (Sheet 1)

tree includes a sapling, shrub or scrub.

urban release area means the land shown edged heavy black on the following maps:

Murray Local Environmental Plan 1989 (Amendment No 15) (Sheet 2)

Murray Local Environmental Plan 1989 (Amendment No 16) (Sheet 2)

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

area.

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

6 Adoption of model provisions

- (1) The *Environmental Planning and Assessment Model Provisions 1980*, except for:
 - (a) the definitions of **agriculture** and **map** in clause 4 (1), and
 - (b) clauses 6, 15, 29, 34 and 36,are adopted for the purposes of this plan.
- (2) The definition of **commercial premises** in clause 4 (1) of the *Environmental Planning and Assessment Model Provisions 1980* is adopted as if there were inserted after the word “clause” wherever occurring in the definition the words “or in clause 5 of the *Murray Local Environmental Plan 1989*”.

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

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

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

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

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

Zone No 2 (v1) (Low Density Residential)—edged heavy black and lettered “2 (v1)”.

9 Zone objectives and development control table

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

Zone No 1 (a) (General Rural)

1 Objectives of zone

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

- (a) protecting, enhancing and conserving:
 - (i) agricultural land in a manner which sustains its efficient and effective agricultural production potential,
 - (ii) soil stability by controlling and locating development in accordance with soil capability,
 - (iii) forests of existing and potential commercial value for timber production,
 - (iv) valuable deposits of minerals, coal, petroleum and extractive

materials by controlling the location of development for other purposes in order to ensure the efficient extraction of those deposits,

- (v) trees and other vegetation in environmentally sensitive areas where the conservation of the vegetation is significant to scenic amenity, recreation or natural wildlife habitat or is likely to control land degradation,
 - (vi) water resources for use in the public interest,
 - (vii) areas of significance for nature conservation, including areas with rare plants, wetlands and significant habitat, and
 - (viii) places and buildings of archaeological or heritage significance, including the protection of aboriginal relics and places,
- (b) preventing the unjustified development of prime crop and pasture land for purposes other than agriculture,
- (c) 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, and
- (e) providing land for future urban development for rural-residential development and for development for other non-agricultural purposes, in accordance with the need for that development.

2 Without development consent

Agriculture (other than ancillary dwellings, animal boarding or training establishments and intensive livestock keeping establishments); forestry (other than ancillary dwellings and pine plantations).

3 Only with development consent

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

4 Prohibited

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

Zone No 1 (c) (Rural Small Holdings)

1 Objectives of zone

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

- (a) rural-residential or hobby farm development, or
- (b) a range of industrial, storage or intensive livestock keeping purposes which are compatible with the environmental capabilities of the land and which are unlikely to adversely affect land or development in the vicinity,

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

2 Without development consent

Agriculture (other than ancillary dwellings, animal boarding or training establishments and intensive livestock keeping establishments).

3 Only with development consent

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

4 Prohibited

Boarding-houses; caravan parks; commercial premises; hotels; motels; motor showrooms; 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 breeding establishments).

3 Only with development consent

Dwelling-houses and buildings ancillary to agriculture; forestry; home industries; 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 enable the continuance or expansion of forestry and the development of associated purposes.

2 Without development consent

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

1 Objectives of zone

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

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose included in item 4.

4 Prohibited

Extractive industries; intensive livestock keeping establishments; mines;

offensive and hazardous industries.

Zone No 2 (v1) (Low Density Residential)

1 Objective of zone

The objective of this zone is to provide land for low density residential development, being development:

- (a) that provides a choice of residential environments, and
- (b) that is in proximity to an urban area, and
- (c) that takes advantage of available urban infrastructure and services, and
- (d) that provides a high level of residential amenity, and
- (e) that does not compromise or conflict with existing or future urban development or adjoining development, and
- (f) that is undertaken in a planned and controlled environment.

2 Without development consent

Agriculture (other than ancillary dwellings and buildings, animal boarding or training establishments, intensive livestock keeping establishments, horticulture and viticulture).

3 Only with development consent

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

4 Prohibited

Animal boarding or training establishments; bulk stores; commercial premises; extractive industries; industries; intensive livestock keeping establishments; junk yards; light industries; motor showrooms; multi-unit housing; offensive or hazardous industries; residential flat buildings; shops (other than general stores); transport terminals; warehouses.

Part 3 Special provisions

10 General considerations for development within rural zones

- (1) The Council shall not consent to an application to carry out development on land within Zone No 1 (a) or 1 (c) unless it has taken into consideration, if relevant, the effect of the carrying out of that development on:

- (a) the present use of the land, the potential use of the land for the purposes of agriculture and the potential of any land which is prime crop and pasture land for sustained agricultural production,
 - (b) vegetation, timber production, land capability (including soil resources and soil stability) and water resources (including the quality and stability of watercourse and ground water storage and riparian rights),
 - (c) the future recovery of known or prospective areas of valuable deposits of minerals, coal, petroleum, sand, gravel or other extractive materials,
 - (d) the protection of areas of significance for nature conservation or of high scenic or recreational value, and places and buildings of archaeological or heritage significance, including Aboriginal relics and places,
 - (e) the cost of providing, extending and maintaining public amenities and services to the development,
 - (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 Murray 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 or on other land in the locality.
- (3) Subclause (1) does not apply to development, being:
- (a) an addition to a building or work,
 - (b) development ancillary to a purpose for which development may be carried out, with or without the consent of the Council, under this plan, or
 - (c) the erection of a dwelling-house on an allotment of land created in accordance with this plan for the purposes of a dwelling-house.

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) A person who makes an application to subdivide land within Zone No 1 (a) or 1 (c) shall, on the application form:
 - (a) state, in relation to each allotment created by the subdivision, the primary purpose for which that allotment is intended to be used,
 - (b) identify any allotment which is intended to be used primarily for the purposes of

agriculture,

- (c) identify any allotment which is intended to be used primarily for the purposes of a dwelling-house,
- (d) identify any allotment on which it is intended to erect a dwelling-house and state whether or not the dwelling-house is the primary purpose for which the allotment is being created, and
- (e) show the approximate location of any dwelling-house erected on the land at the date of the application.

- (3) The Council shall not consent to an application to subdivide land within Zone No 1 (a) or 1 (c) unless the application form complies with subclause (2).

12 Subdivision for the purpose of agriculture in Zone No 1 (a)

- (1) The Council may consent to the creation of an allotment of an area not less than 40 hectares for the purposes of agriculture.
- (2) The Council shall not consent to the creation of an allotment for the purposes of agriculture if the allotment has an area of less than 120 hectares and there is a dwelling-house on the allotment.
- (3) Notwithstanding subclause (2), the Council may consent to the creation for the purposes of agriculture of one, but not more than one, allotment having an area less than 120 hectares from an existing holding on which a dwelling-house stands if that dwelling-house was lawfully erected on that land on or before the appointed day.
- (4) Despite subclause (1), the Council may consent to the creation of an allotment having an area of less than 40 hectares if:
 - (a) the allotment has the benefit of high security water allocation of at least 3 megalitres per hectare, and
 - (b) the Council is satisfied that the allotment will be used for horticultural purposes.

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

- (1) The Council shall not consent to an application to subdivide land within Zone No 1 (a) if any allotment to be created by the subdivision is 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 to create an allotment 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 notwithstanding its agricultural value.

14 Subdivision for the purpose of dwelling-houses in 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:
 - (i) the average area of each allotment to be created as a result of the subdivision is not less than 8 000 square metres,
 - (ii) the area of each allotment to be created as a result of the subdivision is not less than 4 000 square metres, and
 - (iii) the number of allotments which may be created as a result of the subdivision (or at any stage of the subdivision) having an area of less than 8 000 square metres is not more than 65 per cent of the maximum number of allotments which may be created on that land under subparagraph (i), 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 2 hectares, and
 - (ii) the Council is satisfied that arrangements satisfactory to it have been made for the provision of a permanent water supply to that land.
- (2) If communal 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 the Council is satisfied that the resultant development will enhance the amenity of the locality, the area of the communal land may be included in calculating the average lot size of that subdivision.
- (3) The Council shall not grant consent to the subdivision of land under subclause (1) unless it has taken into consideration:
 - (a) the land capability (including soil resources and soil stability), natural constraints

and hazards of the land to be subdivided in relation to the density of the allotments proposed to be created,

- (b) the desirability of providing a range and mixture of allotment sizes,
- (c) whether the design of each allotment to be created by the subdivision is satisfactory for the economic provision of services, and
- (d) the physical suitability of the land for on-site disposal of wastes.

15 Subdivision of land in Zone No 1 (d)

- (1) This clause applies to land within Zone No 1 (d).
- (2) The Council may consent to the subdivision of land to which this clause applies if each allotment created by the subdivision is not less than 2 hectares and the Council is satisfied that the subdivision will complement future urban development.

16 Subdivision of land in Zone No 2 (v)

- (1) A person must not subdivide land within Zone No 2 (v) so as to create an allotment of land to be used for the purpose of a dwelling-house unless:
 - (a) the allotment has an area of 2 000 square metres or more, or
 - (b) the allotment has an area of more than 600 square metres and provision is made for off-site disposal of sewage if the allotment is less than 2 000 square metres in area.
- (2) A person may, with the consent of the Council, carry out integrated housing development of an allotment of land within Zone No 2 (v).
- (3) The Council must not grant consent to integrated housing development of an allotment of land within Zone No 2 (v) unless it is satisfied that:
 - (a) each proposed allotment has an area of 232 square metres or more, and
 - (b) the development makes adequate provision with respect to the privacy of each proposed dwelling-house, and
 - (c) the development makes adequate provision with respect to access to natural light for each proposed dwelling-house, and
 - (d) the floor space ratio of each proposed dwelling-house will not exceed 0.5 to 1, and
 - (e) adequate arrangements can be made for the provision of water, sewerage and drainage services for each proposed dwelling-house, and
 - (f) each proposed building has been designed to take advantage of solar access to the building.

- (4) The Council must not grant consent to integrated housing development of land within Zone No 2 (v) unless the Council has had regard to the accumulated residential density in the immediate vicinity of the proposed development.

16A Subdivision of land in Zone No 2 (v1)

The Council must not grant consent to the subdivision of land within Zone No 2 (v1) unless:

- (a) there is in force in relation to that land a development control plan (within the meaning of section 72 of the Act) that makes provision with respect to the subdivision of land, and
- (b) the proposed plan of subdivision complies with the provisions of the development control plan.

17 Dwelling-houses in Zone No 1 (a)

A person must not erect a dwelling-house on land within Zone No 1 (a) on which no dwelling is erected unless:

- (a) the land comprises:
- (i) an existing holding, or
 - (ii) an allotment created in accordance with this plan for a purpose other than agriculture, or
 - (iii) an allotment created in accordance with a consent granted before the appointed day, being an allotment on which a dwelling-house could have been lawfully erected immediately prior to the appointed day, or
- (b) the land has an area of not less than 500 hectares, or
- (c) the land has an area of not less than 120 but less than 500 hectares and the Council is satisfied that there is a minimum of 250 megalitres of water allocated and available for use on the land, or
- (d) the land has an area of less than 120 hectares and:
- (i) in the opinion of the Council, there is an established intensive agricultural use in existence on the land, and
 - (ii) in the opinion of the Council, the land has an adequate water allocation to sustain the use, and
 - (iii) in the opinion of the Council, it is necessary for a person to occupy the site in order to oversee the intensive agricultural use, or
- (e) the proposed dwelling-house is ancillary and incidental to the present or intended

non-agricultural development of that land.

18 Erection of additional dwelling-houses in 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) (including the alteration of an existing dwelling-house to create 2 dwelling-houses) where:
 - (a) a dwelling-house could be erected on the land in accordance with clause 17 where the land is within Zone No 1 (a),
 - (b) no additional access to a public road is required from the land,
 - (c) separate ownership of the land on which the additional dwelling-house is located would require the lodgment of, and approval by the Council of, a separate subdivision application,
 - (d) in the opinion of the Council, the dwelling-house to be erected on the land will not interfere with the purpose for which the land is being used, and
 - (e) the land is not prime crop and pasture land.
- (2) The Council shall not consent to the subdivision of land on which one additional dwelling-house is erected under this clause except in accordance with this plan.

19 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 the purposes specified in Schedule 2 in the same way as those provisions apply to and in respect of designated development.

20 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 the development of land within Zone No 1 (a) or 1 (c)

for any purpose listed in Schedule 3 if the development of the land for the purpose will have direct access to:

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

21 Environmentally sensitive land

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

22 Flood liable land

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.

23 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 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.

24 Items of the environmental heritage

(1) A person shall not, in respect of a building, work, relic, tree or place that is an item of the environmental heritage:

- (a) demolish, or alter the building or work,
- (b) damage or move the relic, including excavation for the purpose of exposing the relic,
- (c) damage or despoil the place or tree,
- (d) erect a building on or subdivide land on which the building, work or relic is situated or that comprises the place, or
- (e) damage any tree on land on which the building, work or relic is situated or on the land which comprises the place,

except with the consent of the Council.

(2) The Council shall not grant consent to a development application under subclause (1) unless it has made an assessment of:

- (a) the significance of the item as an item of the environmental heritage,
- (b) the extent to which the carrying out of the development in accordance with the consent would affect the heritage significance of the item and its site,
- (c) whether the setting of the item, and in particular, whether any stylistic, horticultural or archaeological features of the setting should be retained, and
- (d) whether the item constitutes a danger to the users or occupiers of that item or to the public.

Note—

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

Statements of Heritage Impact).

25 Development in the vicinity of items of the environmental heritage

The Council shall not grant consent to an application to carry out development on land in the vicinity of an item of the environmental heritage unless the Council 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.

26 Conservation area

(1) A person shall not, in respect of a conservation area:

- (a) demolish or alter a building or work within the area,
- (b) damage or remove a relic, including excavation for the purpose of exposing or removing a relic within the area,
- (c) damage or despoil a place within the area,
- (d) erect a building within that area, or
- (e) destroy any tree of a species specified in Schedule 4 within that area,

except with the consent of the Council.

(2) The Council shall not grant consent to an application under subclause (1) unless it has taken into consideration the extent to which the carrying out of the development would affect the heritage significance of the conservation area.

(3) Nothing in Clause 9 or 10 of [State Environmental Planning Policy No 4—Development Without Consent](#) authorises the carrying out of development referred to in subclause (1) without the need to obtain development consent.

27 (Repealed)

28 Conservation incentives relating to items of the environmental heritage

Nothing in this plan prevents the Council from granting consent to:

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

where, in the opinion of the Council:

- (c) the use would have little or no adverse effect on the amenity of the area, and
- (d) conservation of the building depends on the Council granting consent under this

clause.

29 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.

30 Development along rivers

(1) Notwithstanding any other provision of this plan, a person shall not, on land to which this plan applies:

- (a) on land within Zone No 1 (a) or 1 (c) within 400 metres of any bank of a river, erect a building for any purpose,
- (b) on land within 60 metres of any bank of a river, cause destruction to any tree,
- (c) on land within 20 metres of any bank of a river, carry out development for any purpose, or
- (d) on land comprising the bed or any bank of a river, carry out development for the purposes of:
 - (i) a canal,
 - (ii) a marina (including pontoons, jetties, piers or other structures) designed to provide mooring or dry storage for one or more vessels used for any purpose, or
 - (iii) filling or extraction,

except with the consent of the Council.

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

- (a) a bed of a river, or
- (b) land within Zone No 1 (a) or 1 (c) and being within 60 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, utility installations or the servicing of vessels or sea planes.

(3) The Council shall not consent to an application made in accordance with subclause (1) unless, in the opinion of the Council, the destruction of the trees or the development

of the land, including subdivision of the land, will be carried out in a manner which, in respect of that land and the adjacent land, minimises:

- (a) the risk of soil erosion and other land degradation,
- (b) the loss of scenic amenity, and
- (c) the loss of important vegetation systems and natural wildlife habitats, including fish habitat values.

31 Forestry

- (1) This clause applies to land within a state forest or timber reserve within the meaning of the *Forestry Act 1916*.
- (2) Notwithstanding the provisions of clauses 9 or 21, 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.

32 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) or 1 (c), only if the advertising structure is to be used for the purposes of displaying an advertisement indicating the location of tourist facilities and places of scientific, cultural, historic or scenic interest, and
 - (c) the Council is satisfied that the advertising structure will not interfere with the amenity of the area.

33 Development for certain additional purposes

- (1) Nothing in this plan prevents a person, with the consent of the Council, from carrying out development on land referred to in Schedule 5 for a purpose specified in relation to that land in that Schedule subject to such conditions (if any) as are so specified.
- (2) Subclause (1) does not affect the application to or in respect of development to which that subclause applies of such of the provisions of this plan as are not inconsistent with that subclause or with a consent granted by the Council in respect of any such

development.

33A Development of certain land at Moama

- (1) This clause applies to land at Moama, being part of Portion 30, Parish of Tataila, County of Cadell, as shown edged heavy black on the map marked "*Murray Local Environmental Plan 1989 (Amendment No 3)*".
- (2) Despite any other provision of this plan, a person may, with the consent of the Council:
 - (a) subdivide the land to which this clause applies under the *Community Land Development Act 1989* so as to create not more than 110 lots and common property, and
 - (b) carry out development for residential purposes on those lots and that common property.
- (3) This clause ceases to have effect on the fifth anniversary of the day on which *Murray Local Environmental Plan 1989 (Amendment No 3)* took effect or on such later date as the Minister may, before that fifth anniversary, notify by order published in the Gazette.
- (4) Nothing in subclause (3) prevents the Council from granting consent to alterations or extensions to, or to the rebuilding of, a building.

33B Subdivision of certain land at Moama

- (1) This clause applies to land at Moama, being lot 2, DP 527455, Parish of Tataila, County of Cadell, as shown edged in heavy black and lettered "1 (c)" on the map marked "*Murray Local Environmental Plan 1989 (Amendment No 4)*."
- (2) Despite any other provision of this plan, a person may, with the consent of the Council:
 - (a) subdivide the land to which this clause applies under the *Community Land Development Act 1989* so as to create not more than 21 lots and common property, and
 - (b) carry out development for rural small holdings purposes on those lots.
- (3) The average area of allotments to be created under sub-clause (2) is to be not less than 2,800 square metres excluding common property.
- (4) The area of each allotment to be created under sub-clause (2) is to be not less than 2,000 square metres.
- (5) The Council must not grant consent to any such subdivision or development unless it is satisfied that the common property will be maintained as a natural riparian

woodland.

- (6) This clause does not apply to any application for subdivision received by the Council after 31 January 1999.

33C Development at Moama

- (1) This clause applies to land at Moama, being Lot 3, DP 856889, Parish of Tataila, County of Cadell as shown edged in heavy black and labelled 3 on the map marked '*Murray Local Environmental Plan 1989 (Amendment No 7)*'.
- (2) Despite any other provision of this plan, a person may, with the consent of the Council:
 - (a) subdivide the land to which this clause applies under the *Community Land Development Act 1989* so as to create not more than 33 neighbourhood lots and neighbourhood property, and
 - (b) carry out development for fully serviced small rural holdings purposes on those lots.
- (3) The average area of the allotments to be created under this clause is to be not less than 4,000 square metres, excluding neighbourhood property.
- (4) The minimum area of an allotment to be created under this clause is to be not less than 3,000 square metres.

34 Classification and reclassification of public land

- (1) The land referred to in Part 1 of Schedule 6 is classified or reclassified as community land for the purposes of Part 2 of Chapter 6 of the *Local Government Act 1993*.
- (2) The land referred to in Part 2 of Schedule 6 is classified or reclassified as operational land for the purposes of Part 2 of Chapter 6 of the *Local Government Act 1993*.

35 Development of certain land at Mathoura

- (1) This clause applies to land shown edged heavy black on Sheet 2 of the map marked "*Murray Local Environmental Plan 1989 (Amendment No 5)*".
- (2) Subject to subclause (3), nothing in this plan prevents a person, with the consent of the Council, from carrying out development on the land to which this clause applies for a purpose permissible in Zone No 1 (c) (the Rural Small Holdings zone).
- (3) The Council must not grant consent to development referred to in subclause (2) after the expiration of 5 years from the day on which *Murray Local Environmental Plan 1989 (Amendment No 5)* took effect or such later date as the Minister may, before the expiration of that 5-year period, notify by order published in the Gazette.

36 Suspension of certain provisions, covenants etc

- (1) For the purpose of enabling the subdivision to be carried out of Lots 1-23, Deposited Plan 258661 where off-site disposal of sewage is available, and the erection of a dwelling on the subdivided lots, any agreement, covenant or similar instrument imposing restrictions as to that subdivision and erection of a dwelling, to the extent necessary to serve that purpose, do not apply to that development.
- (2) Pursuant to section 28 of the *Environmental Planning and Assessment Act 1979*, before the making of subclause (1) the Governor approved of the subclause.

37 Exempt and complying development

- (1) Development of minimal environmental impact listed as exempt development in *Development Control Plan for Exempt and Complying Development*, as adopted by the Council on 19 October 1999, is **exempt development**, despite any other provision of this plan.
- (2) Development listed as complying development in *Development Control Plan for Exempt and Complying Development*, as adopted by the Council on 19 October 1999, is **complying development** if:
 - (a) it is local development of a kind that can be carried out with consent on the land on which it is proposed, and
 - (b) it is not an existing use, as defined in section 106 of the Act.
- (3) Development is exempt or complying development only if it complies with the development standards and other requirements applied to the development by *Development Control Plan for Exempt and Complying Development*, as adopted by the Council on 19 October 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 for Exempt and Complying Development* adopted by the Council on 19 October 1999, as in force when the certificate is issued (including any subsequent amendments made in accordance with Part 3 of the *Environmental Planning and Assessment Regulation 1994*).

Part 4 Urban release areas

38 Arrangements for designated State public infrastructure

- (1) The objective of this clause is to require satisfactory arrangements to be made for the provision of designated State public infrastructure before the subdivision of land in an urban release area to satisfy needs that arise from development on the land, but only if the land is developed intensively for urban purposes.

- (2) The Council must not grant consent to development for the subdivision of land in an urban release area if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the land became, or became part of, an urban release area, unless the Director-General has certified in writing to the Council that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that lot.
- (3) Subclause (2) does not apply to:
 - (a) any lot identified in the certificate as a residue lot, or
 - (b) any lot created by a subdivision previously consented to in accordance with this clause, or
 - (c) any lot that is proposed in the development application to be reserved or dedicated for public open space, public roads, public utility undertakings, educational facilities or any other public purpose, or
 - (d) a subdivision for the purpose only of rectifying an encroachment on any existing lot.
- (4) *State Environmental Planning Policy No 1—Development Standards* does not apply to the subdivision of land to which subclause (2) applies.
- (5) This clause does not apply to land in an urban release area if all or any part of the land is in a special contributions area (as defined by section 93C of the Act).

39 Public utility infrastructure

- (1) The Council must not grant consent to development on land in an urban release area unless it is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.
- (2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.

40 Development control plan

- (1) The Council must not grant consent to development on land within an urban release area unless a development control plan that provides for the matters specified in subclause (2) has been prepared for the land.
- (2) The development control plan referred to in subclause (1) must provide for all of the following matters:
 - (a) a staging plan for the timely and efficient release of urban land making provision for necessary infrastructure and sequencing,

- (b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,
 - (c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,
 - (d) a network of passive and active recreational areas,
 - (e) stormwater and water quality management controls,
 - (f) amelioration of natural and environmental hazards, including bushfire, flooding and site contamination,
 - (g) detailed urban design controls for significant development sites,
 - (h) measures to encourage higher density living around transport, open space and service nodes,
 - (i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,
 - (j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.
- (3) Subclause (2) does not apply to any of the following development:
- (a) a subdivision for the purpose of a realignment of boundaries that does not create additional lots,
 - (b) a subdivision of land if any of the lots proposed to be created is to be reserved or dedicated for public open space, public roads or any other public or environmental protection purpose,
 - (c) a subdivision of land in a zone in which the erection of structures is prohibited,
 - (d) proposed development on land that is of a minor nature only, if the Council is of the opinion that the carrying out of the proposed development would be consistent with the objectives of the zone in which the land is situated.

41 Relationship between Part and remainder of Plan

A provision of this Part prevails over any other provision of this Plan to the extent of any inconsistency.

Schedule 1 Items of the environmental heritage

(Clause 5 (1))

Moama

- 1** House, 11 Berry Street
- 2** Residence, formerly Post Office, 2-4 Chanter Street
- 3** Cottage, 12 Chanter Street
- 4** House, 34 Echuca Street
- 5** Courthouse Group, corner of Francis and Maiden Streets, including—Courthouse and police station, Cottage, Maiden Street
- 6** Killarney, 8 Simms Street
- 7** Barges and slipway, Ward Street
- 8** Mile Tree 311, Boora Boora, Pericoota Road, Tataila
- 9** Captain Chanter's Cottage, Chanter Street
- 10** Old Gaol, Chanter Street

Schedule 2 Development which must be advertised

(Clause 19)

- 1 The demolition of a building or work that is an item of the environmental heritage, or is within a conservation area, not being a partial demolition, which, in the opinion of the Council, is of a minor nature and does not adversely affect the significance of the building or work as part of the environmental heritage.
- 2 Boarding-houses; hotels; motels; residential flat buildings.
- 3 Industries (other than rural industries) in Zone No 1 (a) or 1 (c).
- 4 Junk yards; liquid fuel depots; saw-mills; stock and sale yards.

Schedule 3 Restricted development along arterial roads

(Clause 20 (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
Sawmills
Service stations
Stock and sale yards
Transport terminals
Warehouses

Schedule 4 Species of trees

(Clause 26 (1) (e))

| | | |
|----|---------------------------------|------------------|
| 1. | <i>Acacia acinacea</i> | Gold-dust wattle |
| 2. | <i>Acacia dealbata</i> | Silver wattle |
| 3. | <i>Acacia montana</i> | Mallee wattle |
| 4. | <i>Eucalyptus camaldulensis</i> | River red gum |
| 5. | <i>Eucalyptus largeiflorens</i> | Black box |
| 6. | <i>Eucalyptus microcarpa</i> | Grey box |
| 7. | <i>Eutaxia microphylla</i> | Mallee bush-pea |
| 8. | <i>Exocarpis strictus</i> | Dwarf cherry |

Schedule 5 Development for certain additional uses

(Clause 33)

- 1 Aboriginal Reserves No 311205 and No 31121 and Portions 8, 9, 38, 44 and 112, Parish of Bama, County of Cadell—development for aboriginal housing and ancillary purposes.
- 2 Portion 14, Parish of Mathoura, County of Cadell—subdivision into 2 lots and the erection of a dwelling-house on the lot so created.
- 3 Portion 229, Parish of Moama, County of Cadell—subdivision and development for the purposes of service industry, subject to the following conditions:

- (a) no development occurring before a landscaped strip 10 metres wide along the Cobb Highway has been planted to the satisfaction of the Council,
 - (b) vehicular access to the Cobb Highway meeting the requirements of the Roads and Traffic Authority,
 - (c) land within 30 metres of the Cobb Highway alignment not being used for buildings, parking or storage of materials,
 - (d) provision of a service road to be constructed to meet the requirements of the Council and the Roads and Traffic Authority,
 - (e) parking spaces and sealed driveways to be provided in accordance with the requirements of the Council,
 - (f) provision of all services (water, sewer and electricity) to the site to the satisfaction of the Council.
- 4 Lot 7, Deposited Plan 773833, Parish of South Deniliquin, County of Townsend—subdivision into 8 lots and development for the purposes of horse breeding and training establishments.
- 5 Portion 19, Parish of Tataila, County of Cadell—subdivision into rural-residential allotments, subject to the following conditions:
- (a) provision is made for off-site disposal of sewage,
 - (b) the average area of the allotments to be created is not less than 5,000 square metres (if land is provided and developed for the communal use of future owners of allotments so created and the Council is satisfied that the resultant development will enhance the amenity of the locality, the area of communal land may be included in calculating the average lot size of the allotments so created), and
 - (c) the area of each allotment to be created is not less than 3,000 square metres.
- 6 Lots 27 and 28, DP 599329 and Lot 2, DP 576702, Parish of Tataila—subdivision and erection of one dwelling-house on each allotment created, subject to the following conditions:
- (a) the average area of the allotments to be created is not less than 10 hectares, and
 - (b) if land is to be provided and developed for the purpose of an access road within a subdivision of land referred to in this item and the Council is satisfied that this road is necessary to meet the road safety standards of the area, the road reserve may be included in calculating the average lot size of that subdivision.
- 7 Lots 21 and 22, Deposited Plan 749000 and Lots 2, 11, 60 and 61, Deposited Plan 756258, Parish of Boyeo, County of Cadell, property known as “Ilderton”—subdivision into 30 lots in accordance with the [Community Land Development Act 1989](#) for the purpose of multiple occupancy of a rural property.
- 8 Lots 1 and 2, Deposited Plan 553897, Betts Street, Town and Parish of Moama, County of Cadell—erection of one dwelling-house on each lot.

- 9 Lot 1, Deposited Plan 610554, Parish of Moama, County of Cadell—subdivision into 2 lots to create a separate lot on which the existing dwelling-house is located.
- 10 Lot 4, Deposited Plan 255139, Parish of Moama, County of Cadell—subdivision into 2 lots and erection of one dwelling-house on each lot.
- 11 Part of Lot 13, DP 733813, Parish of Tataila and County of Cadell, as shown edged heavy black on the map marked “*Murray Local Environmental Plan 1989 (Amendment No 6)*” residential development integrated with the golf course existing at the time *Murray Local Environmental Plan 1989 (Amendment No 6)* was made.

Schedule 6 Classification and reclassification of public land

(Clause 34)

Part 1 Community land

Part 2 Operational land

| | | | | |
|---|--------|-----------|-----------------|------------------|
| 1 | Lot 23 | DP 256000 | Parish of Moama | County of Cadell |
| 2 | Lot 21 | DP 747384 | Parish of Moama | County of Cadell |
| 3 | Lot 58 | DP 261046 | Parish of Moama | County of Cadell |