



New South Wales

Queanbeyan Local Environmental Plan 1998 (Amendment No 43)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (QUE0000228/S69)

FRANK SARTOR, M.P.,
Minister for Planning

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Clause 1 Queanbeyan Local Environmental Plan 1998 (Amendment No 43)

Queanbeyan Local Environmental Plan 1998 (Amendment No 43)

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Queanbeyan Local Environmental Plan 1998 (Amendment No 43)*.

2 Aims of plan

The aims of this plan are:

- (a) to give effect to recent changes to a development control plan relating to exempt and complying development, and
- (b) to allow, with the consent of the Council of the City of Queanbeyan, the carrying out of development on certain land to which this plan applies for the purposes of extractive industry, and
- (c) to reclassify part of the land to which this plan applies from community land to operational land, and
- (d) to make a number of minor operational amendments to *Queanbeyan Local Environmental Plan 1998* and *Yarrowlumla Local Environmental Plan 2002*, and
- (e) to rectify the map marked “Queanbeyan Local Environmental Plan 1998 (Amendment No 28)”.

3 Land to which plan applies

- (1) This plan applies to all land within the local government area of the City of Queanbeyan, except as provided by subclauses (2)–(4).
- (2) To the extent that it rectifies the map marked “Queanbeyan Local Environmental Plan 1998 (Amendment No 28)”, this plan applies to the land shown edged heavy black and lettered on Sheet 1 of the map marked “Queanbeyan Local Environmental Plan 1998 (Amendment No 43)” deposited in the office of the Council of the City of Queanbeyan.

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- (3) To the extent that this plan allows certain additional land uses on part Lots 110 and 124, DP 754881, 501 Cooma Road, Googong and part Lot 1, DP 808393, 505 Cooma Road, Googong, this plan applies to the land shown edged heavy black on Sheet 2 of the map marked “Queanbeyan Local Environmental Plan 1998 (Amendment No 43)” deposited in the office of the Council of the City of Queanbeyan.
 - (4) To the extent that this plan reclassifies part of Lot 243, DP 869283, 158 Candlebark Road, Karabar, from “community” land to “operational” land, this plan applies to the land shown edged heavy black on Sheet 3 of the map marked “Queanbeyan Local Environmental Plan 1998 (Amendment No 43)” deposited in the office of the Council of the City of Queanbeyan.

4 Amendment of environmental planning instruments

This plan:

- (a) amends *Queanbeyan Local Environmental Plan 1991* as set out in Schedule 1, and
- (b) amends *Queanbeyan Local Environmental Plan 1998* as set out in Schedule 2, and
- (c) amends *Yarrowlunla Local Environmental Plan 2002* as set out in Schedule 3.

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Queanbeyan Local Environmental Plan 1998 (Amendment No 43)

Schedule 1 Amendment of Queanbeyan Local Environmental Plan 1991

Schedule 1 Amendment of Queanbeyan Local Environmental Plan 1991

(Clause 4 (a))

Clause 5A

Omit clauses 5A and 5B. Insert instead:

5A Exempt development and complying development

- (1) Development of minimal environmental impact listed as exempt development in *Queanbeyan Development Control Plan No 49—Exempt and Complying Development* as adopted by the Council on 6 July 2005 is exempt development, despite any other provision of this plan.
- (2) Development listed as complying development in *Queanbeyan Development Control Plan No 49—Exempt and Complying Development* as adopted by the Council on 6 July 2005 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, and
 - (c) it complies with the current deemed-to-satisfy provisions of the *Building Code of Australia* relevant to the development, and
 - (d) it does not involve a change of classification under the *Building Code of Australia* of any building or part of any building on the land, and
 - (e) it does not contravene any condition of a development consent applying to the land, and
 - (f) it is not integrated development, as defined in section 91 of the Act, and
 - (g) it complies with any applicable manufacturer's instructions and any applicable *Australian standard* published by Standards Australia.
- (3) Development is exempt or complying development only if it complies with the development standards and other requirements applied to the development by *Queanbeyan Development Control Plan No 49—Exempt and Complying Development* as adopted by the Council on 6 July 2005.

- (4) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in *Queanbeyan Development Control Plan No 49—Exempt and Complying Development* adopted by the Council, as in force when the certificate is issued.

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Schedule 2 Amendment of Queanbeyan Local Environmental Plan 1998

Schedule 2 Amendment of Queanbeyan Local Environmental Plan 1998

(Clause 4 (b))

[1] Clause 7A

Omit clauses 7A and 7B. Insert instead:

7A Exempt development and complying development

- (1) Development of minimal environmental impact listed as exempt development in *Queanbeyan Development Control Plan No 49—Exempt and Complying Development* as adopted by the Council on 6 July 2005 is exempt development, despite any other provision of this plan.
- (2) Development listed as complying development in *Queanbeyan Development Control Plan No 49—Exempt and Complying Development* as adopted by the Council on 6 July 2005 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, and
 - (c) it complies with the current deemed-to-satisfy provisions of the *Building Code of Australia* relevant to the development, and
 - (d) it does not involve a change of classification under the *Building Code of Australia* of any building or part of any building on the land, and
 - (e) it does not contravene any condition of a development consent applying to the land, and
 - (f) it is not integrated development, as defined in section 91 of the Act, and
 - (g) it complies with any applicable manufacturer's instructions and any applicable *Australian standard* published by Standards Australia.
- (3) Development is exempt or complying development only if it complies with the development standards and other requirements applied to the development by *Queanbeyan Development Control Plan No 49—Exempt and Complying Development* as adopted by the Council on 6 July 2005.

- (4) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in *Queanbeyan Development Control Plan No 49—Exempt and Complying Development* adopted by the Council, as in force when the certificate is issued.

[2] Clause 11 Exceptions to the general development control clauses

Insert after clause 11 (w):

- (x) Part Lots 110 and 124, DP 754881 being 501 Cooma Road, Googong and part Lot 1, DP 808393 being 505 Cooma Road, Googong, as shown edged heavy black on Sheet 2 of the map marked “Queanbeyan Local Environmental Plan 1998 (Amendment No 43)”:
- extractive industry involving:
 - placing of overburden and relocation of the primary crusher and water management works on part Lot 110, DP 754881 and part Lot 1, DP 808393, and
 - construction of a workshop and water management works on part Lot 124, DP 754881.

[3] Clause 13 Zone objectives and general development controls

Omit clause 13 (3). Insert instead:

- (3) Except as otherwise provided by this plan, the Council must not consent to development on land within a zone unless the Council is of the opinion that the development is consistent with the objectives of the zone.

[4] Clause 14 General Development Controls—Zone 1 (a) Rural A

Omit “Home Based Child Minding Services” from clause 14 (3).

[5] Clause 15 General Development Controls—Zone 1 (b) Rural B

Omit “Home based Child Minding Services” from clause 15 (3).

[6] Clause 19 General Development Controls—Zone 2 (a) Residential A

Omit “Home Based Child Minding Services” from clause 19 (3).

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Schedule 2 Amendment of Queanbeyan Local Environmental Plan 1998

[7] Clause 20 General Development Controls—Zone 2 (b) Residential B

Omit clause 20 (1) (a). Insert instead:

- (a) to encourage alterations, additions or redevelopment that results in well designed dual occupancy housing and multi-dwelling housing, and

[8] Clause 20 (4)

Omit “(other than townhouses or villas)”.

[9] Clause 21 General Development Controls—Zone 2 (c) Residential C

Omit clause 21 (1) (a). Insert instead:

- (a) to encourage alterations, additions or redevelopment that results in well designed dual occupancy housing, multi-dwelling housing and residential flat buildings, and

[10] Clause 25 Multi dwelling housing—matters for consideration

Omit “should the site be subdivided,” from clause 25 (a).

[11] Clause 29 General Development Controls—Zone 3 (c) Business C

Omit “Home Based Child Minding Services” from clause 29 (3).

[12] Clause 57 Development of heritage items or development within a heritage conservation area requiring development consent

Insert at the end of clause 57 (e):

, or

- (f) the removal of any tree to which a tree preservation order applies.

[13] Clause 73 Development within scenic protection areas or Residential E Zone—matters for consideration

Omit clause 73 (d). Insert instead:

- (d) the part of the site to be used for the building is stable or can be stabilised in accordance with the requirements of the Council, and

[14] Clause 81A Land transferred from Yarrawlumla

Omit clause 81A (1). Insert instead:

- (1) This clause applies to land shown edged heavy black on the map marked “Queanbeyan Local Environmental Plan 1998 (Amendment No 28)” and land shown edged heavy black and lettered on Sheet 1 of the map marked “Queanbeyan Local Environmental Plan 1998 (Amendment No 43)” deposited in the office of the Council of the City of Queanbeyan, which is referred to in this clause as *transferred land*.

[15] Clause 81A (2)

Insert “, or as shown edged heavy black and lettered on Sheet 1 of the map marked ‘Queanbeyan Local Environmental Plan 1998 (Amendment No 43)’” after “Table” where secondly occurring.

[16] Schedule 1 Dictionary

Omit the definitions of *awning, cabana, canopy, clearing, cluster housing, cubby house, deck, gazebo, greenhouse, home activity, mixed use building, multi-dwelling housing, patio, pergola, residential flat building, storey, townhouse* and *villa*.

[17] Schedule 1

Insert in alphabetical order:

cluster housing means a group of more than two dwellings having communal open space and other shared facilities on a single allotment of land, detached or attached in groups of two.

home activity means any activity or pursuit carried out in a room or a number of rooms forming part of, or within the curtilage of, a dwelling-house on an allotment, or in another building for which consent has been granted situated on the allotment, where:

- (a) only goods made or produced, or services offered, as a result of the activity or pursuit are displayed, sold or provided, and
- (b) the primary use of the building is residential, and
- (c) the carrying out of the activity or pursuit:
 - (i) does not interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil or otherwise, and
 - (ii) is not visible from any public place, and

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Schedule 2 Amendment of Queanbeyan Local Environmental Plan 1998

- (iii) does not require the provision of any essential service main of a greater capacity than that available in the locality, and
- (iv) does not generate traffic out of keeping with the surrounding area, and
- (v) does not involve the employment of more than one person other than the permanent residents of the dwelling-house, and
- (vi) does not involve the exhibition of any notice, advertisement or sign other than a notice or sign exhibited on the dwelling-house, or on land on which the dwelling-house is erected, to indicate the names and occupation of the permanent residents of the dwelling-house, and
- (vii) does not involve a change in the appearance of the dwelling-house, or the land on which the dwelling-house is erected, that is, in the opinion of the Council, out of character with the appearance of the adjoining area, and
- (viii) does not involve prostitution, and
- (d) the gross floor area where the activity or pursuit is carried out does not exceed 50 square metres, and
- (e) provision is made for the parking of all visiting customers' or clients' vehicles, in accordance with the Council's requirements, behind the building line or in a suitably screened area within the allotment boundary, and
- (f) any retail sales are ancillary to the home activity, and
- (g) the activity or pursuit is carried out by at least one of the permanent residents of the dwelling-house.

mixed use building means a building (other than a residential flat building) containing commercial or retail uses on the ground floor and which contains fewer than four self-contained dwellings on the floor or floors above the ground floor.

multi-dwelling housing means a group of two or more dwellings, not being a residential flat building, and may include cluster housing, integrated housing, terraces, townhouses, villas and the like.

residential flat building means a building that comprises or includes:

- (a) two or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and

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- (b) four or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops), but does not include a Class 1a building or a Class 1b building under the *Building Code of Australia*.

storey means:

- (a) the space between two floors, or
- (b) the space between any floor and its ceiling or roof above, or
- (c) building foundation areas, garages, workshops, storerooms and the like, where the height between ground level and the floor above is 1.2 metres or more.

A storey which exceeds 4.5 metres is counted as two storeys.

[18] Schedule 1, definition of “home occupation”

Insert at the end of paragraph (e):

, and

- (f) the occupation or pursuit is carried out by at least one of the permanent residents of the dwelling-house.

[19] Schedule 1, definition of “the map”

Insert in appropriate order:

Queanbeyan Local Environmental Plan 1998 (Amendment No 43)—Sheet 1

[20] Schedule 6 Classification and reclassification of public land as operational land

Insert before the matter relating to Queanbeyan in Part 3:

Karabar

158 Candlebark Road, Karabar.	Part of Lot 243, DP 869283, as shown edged heavy black on Sheet 3 of the map marked “Queanbeyan Local Environmental Plan 1998 (Amendment No 43)”.	Nil.
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Queanbeyan Local Environmental Plan 1998 (Amendment No 43)

Schedule 3 Amendment of Yarrowlumla Local Environmental Plan 2002

Schedule 3 Amendment of Yarrowlumla Local Environmental Plan 2002

(Clause 4 (c))

[1] Clause 13 What is exempt development?

Insert after clause 13 (3):

- (4) This clause does not apply to land to which clause 14A applies.

[2] Clause 14 What is complying development?

Insert after clause 14 (5):

- (6) This clause does not apply to land to which clause 14A applies.

[3] Clause 14A

Insert after clause 14:

14A Exempt development and complying development within the area of the City of Queanbeyan

- (1) This clause applies to land to which this plan applies that is within the area of the City of Queanbeyan.
- (2) Development of minimal environmental impact listed as exempt development in *Queanbeyan Development Control Plan No 49—Exempt and Complying Development* as adopted by the Council on 6 July 2005 is exempt development, despite any other provision of this plan.
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 - (b) it is not an existing use, as defined in section 106 of the Act, and
 - (c) it complies with the current deemed-to-satisfy provisions of the *Building Code of Australia* relevant to the development, and
 - (d) it does not involve a change of classification under the *Building Code of Australia* of any building or part of any building on the land, and

- (e) it does not contravene any condition of a development consent applying to the land, and
 - (f) it is not integrated development, as defined in section 91 of the Act, and
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[4] Dictionary

Omit the definition of **Council**. Insert instead:

Council means:

- (a) in relation to land within the area of the City of Queanbeyan—Queanbeyan City Council, or
- (b) in relation to any other land—Yarrowlumla Shire Council.