



New South Wales

Tumut Local Environmental Plan 1990 (Amendment No 25)

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*. (QUE0000213/PC)

FRANK SARTOR, M.P.,
Minister for Planning

2008 No 143

Clause 1 Tumut Local Environmental Plan 1990 (Amendment No 25)

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1 Name of plan

This plan is *Tumut Local Environmental Plan 1990 (Amendment No 25)*.

2 Aims of plan

This plan aims to amend *Tumut Local Environmental Plan 1990 (the 1990 plan)* as follows:

- (a) to introduce a definition of **brothel** into the 1990 plan and to provide, subject to development consent, for the carrying out of development for the purpose of brothels only on land in Zone No 4 (a) (the General Industrial Zone) in such a location and in such a manner that the brothels are unlikely:
 - (i) to have a detrimental effect on the amenity of the neighbourhood, and
 - (ii) to be incompatible with surrounding development,
- (b) to introduce a definition of **storage facility** into the 1990 plan and to prohibit the carrying out of development for the purpose of storage facilities on all land under the 1990 plan except for land in Zones Nos 1 (a) (the Rural Zone), 1 (b) (the Rural (Special Agriculture) Zone), 2 (v) (the Residential (Village or Township) Zone), 4 (a) (the General Industrial Zone) and 4 (b) (the Light Industrial Zone),
- (c) to allow, with development consent, the carrying out of development for the purpose of places of public worship on land in Zone No 1 (c1) (the Rural (Rural Residential) Zone),
- (d) to prohibit the carrying out of development for the purpose of warehouses on land in Zone No 3 (a) (the General Business Zone),
- (e) to allow, with development consent, the carrying out of development for the purpose of a tourist facility on the site of the existing "Cramarric" bed and breakfast establishment and tourist facility, subject to conditions,

- (f) to rezone certain land from Zone No 6 (a) (the Open Space Recreation Zone) to Zone No 2 (a) (the Residential (Low Density) Zone),
- (g) to reclassify certain land from community land to operational land within the meaning of the *Local Government Act 1993 (the 1993 Act)* and to rezone that land from Zone No 6 (a) (the Open Space Recreation Zone) to Zone No 2 (a) (the Residential (Low Density) Zone),
- (h) to provide generally for the classification and reclassification of public land within the meaning of the 1993 Act.

3 Land to which plan applies

- (1) With respect to the aims referred to in clause 2 (a), (b) and (h), this plan applies to all land under the 1990 plan.
- (2) With respect to the aim referred to in clause 2 (c), this plan applies to all land in Zone No 1 (c1) (the Rural (Rural Residential) Zone).
- (3) With respect to the aim referred to in clause 2 (d), this plan applies to all land in Zone No 3 (a) (the General Business Zone).
- (4) With respect to the aim referred to in clause 2 (e), this plan applies to Lot 1, DP 344412 and Lot 2, DP 1014636, East Street, Tumut, as shown edged heavy black on Sheet 2 of the map marked "Tumut Local Environmental Plan 1990 (Amendment No 25)" deposited in the office of Tumut Shire Council.
- (5) With respect to the aim referred to in clause 2 (f), this plan applies to land known as Capper Street Park, being Lot 27 and part of Lots 24–26, DP 876844, Capper Street, Tumut, as shown coloured light scarlet and lettered "2 (a)" on Sheet 3 of that map.
- (6) With respect to the aim referred to in clause 2 (g), this plan applies to Lot 14, DP 248962 and known as Carramar Park, Carramar Crescent, Tumut, as shown coloured light scarlet and lettered "2 (a)" on Sheet 1 of that map.

4 Amendment of Tumut Local Environmental Plan 1990

Tumut Local Environmental Plan 1990 is amended as set out in Schedule 1.

2008 No 143

Tumut Local Environmental Plan 1990 (Amendment No 25)

Schedule 1 Amendments

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(Clause 4)

[1] Clause 5 Definitions

Insert in alphabetical order in clause 5 (1):

brothel has the same meaning as in the Act.

Note. The term is defined as a brothel within the meaning of the *Restricted Premises Act 1943* (ie premises habitually used for the purposes of prostitution, or that have been used for that purpose and are likely to be used again for that purpose), but excludes premises used or likely to be used for the purposes of prostitution by no more than one prostitute.

storage facility means a building or place used for the storage of any item (whether goods, merchandise, archives, personal effects or belongings, or other materials) and includes self-storage units, where items are stored in individual compartments.

the Act means the *Environmental Planning and Assessment Act 1979*.

[2] Clause 5 (1), definition of “the map”

Insert in appropriate order:

Tumut Local Environmental Plan 1990 (Amendment No 25)—
Sheets 1 and 3

[3] Clause 9 Zone objectives and development control table

Insert “brothels;” in alphabetical order in item 4 of the matter relating to Zones Nos 1 (a), 1 (b), 1 (c), 2 (a), 2 (b), 2 (v), 3 (a) and 4 (b) in the Table to the clause.

[4] Clause 9, Table

Insert “storage facilities;” in alphabetical order in item 4 of the matter relating to Zones Nos 1 (c), 2 (a) and 2 (b).

[5] Clause 9, Table

Insert “places of public worship;” in alphabetical order in item 3 of the matter relating to Zone No 1 (c1).

[6] Clause 9, Table

Insert “; storage facilities; warehouses” in alphabetical order in item 4 of the matter relating to Zone No 3 (a).

[7] Clause 9, Table

Omit “and” where thirdly occurring in item 1 (c) of the matter relating to Zone No 4 (a).

[8] Clause 9, Table

Omit “industry” from item 1 (d) of the matter relating to Zone No 4 (a).
Insert instead “industries and brothels”.

[9] Clause 9, Table

Insert after item 1 (d) in the matter relating to Zone No 4 (a):

, and

- (e) to enable the development of land for the purpose of a brothel, provided that, in recognition of the industrial nature of this zone, the brothel, whether by itself or taken together with any other brothel in the area, does not detract significantly from the industrial character envisaged by this zone.

[10] Clause 38

Insert after clause 37:

38 Classification and reclassification of public land

- (1) The objective of this clause is to enable the Council to classify or reclassify public land as “operational land” or “community land” in accordance with Part 2 of Chapter 6 of the *Local Government Act 1993*.

Note. Under the *Local Government Act 1993*, “public land” is generally land vested in or under the control of a council (other than roads, Crown reserves and commons). The classification or reclassification of public land may also be made by a resolution of the Council under section 31, 32 or 33 of the *Local Government Act 1993*. Section 30 of that Act enables this plan to discharge trusts on which public reserves are held if the land is reclassified under this plan as operational land.

- (2) The public land described in Part 1 or Part 2 of Schedule 5 is classified, or reclassified, as operational land for the purposes of the *Local Government Act 1993*.
- (3) The public land described in Part 3 of Schedule 5 is classified, or reclassified, as community land for the purposes of the *Local Government Act 1993*.
- (4) The public land described in Part 1 of Schedule 5:
 - (a) does not cease to be a public reserve to the extent (if any) that it is a public reserve, and

2008 No 143

Tumut Local Environmental Plan 1990 (Amendment No 25)

Schedule 1 Amendments

- (b) continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants that affected the land before its classification, or reclassification, as operational land.
- (5) The public land described in Part 2 of Schedule 5, to the extent (if any) that it is a public reserve, ceases to be a public reserve when the description of the land is inserted into that Part and is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except:
 - (a) those (if any) specified for the land in Column 3 of Part 2 of Schedule 5, and
 - (b) any reservations that except land out of the Crown grant relating to the land, and
 - (c) reservations of minerals (within the meaning of the *Crown Lands Act 1989*).

Note. In accordance with section 30 (2) of the *Local Government Act 1993*, the approval of the Governor to subclause (5) applying to the public land concerned is required before the description of the land is inserted in Part 2 of Schedule 5.

[11] Schedule 2 Development for certain additional purposes

Insert at the end of the Schedule in Columns 1, 2 and 3, respectively:

Lot 1, DP 344412 and Lot 2, DP 1014636, East Street, Tumut.	Tourist facility.	All buildings are to be:
		(a) compatible in style with the existing "Cramarric" bed and breakfast establishment and tourist facility situated on Lot 1, DP 344412, and
		(b) connected to the town's sewerage system.

[12] Schedule 5

Insert after Schedule 4:

Schedule 5 Classification and reclassification of public land

(Clause 38)

Part 1 Land classified, or reclassified, as operational land—no interests changed

Column 1	Column 2
Locality	Description

Part 2 Land classified, or reclassified, as operational land—interests changed

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged
Tumut		
Carramar Park, Carramar Crescent	Lot 14, DP 248962	Nil.

Part 3 Land classified, or reclassified, as community land

Column 1	Column 2
Locality	Description