



New South Wales

Tumbarumba Local Environmental Plan 2010

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, pursuant to section 33A of the *Environmental Planning and Assessment Act 1979*, adopt the mandatory provisions of the *Standard Instrument (Local Environmental Plans) Order 2006* and prescribe matters required or permitted by that Order so as to make a local environmental plan as follows (S08/00075-1).

TONY KELLY, MLC
Minister for Planning

Contents

	Page
Part 1 Preliminary	
1.1 Name of Plan	4
1.1AA Commencement	4
1.2 Aims of Plan	4
1.3 Land to which Plan applies	4
1.4 Definitions	4
1.5 Notes	5
1.6 Consent authority	5
1.7 Maps	5
1.8 Repeal of other local planning instruments applying to land	5
1.8A Savings provision relating to development applications	6
1.9 Application of SEPPs	6
1.9A Suspension of covenants, agreements and instruments	6
Part 2 Permitted or prohibited development	
2.1 Land use zones	8
2.2 Zoning of land to which Plan applies	8
2.3 Zone objectives and Land Use Table	8
2.4 Unzoned land	9
2.5 Additional permitted uses for particular land	9
2.6 Subdivision—consent requirements	10
2.6AA Demolition requires consent	10
2.6BB Temporary use of land	10
Land Use Table	11
Part 3 Exempt and complying development	
3.1 Exempt development	24
3.2 Complying development	25
3.3 Environmentally sensitive areas excluded	26
Part 4 Principal development standards	
4.1 Minimum subdivision lot size	28
4.2 Rural subdivision	28
4.2A Erection of dwelling houses on land in certain rural and environmental protection zones	29
4.2B No strata or community title subdivision in certain rural or environmental protection zones	30
4.3 Height of buildings	31

	Page
4.4 Floor space ratio	31
4.5 Calculation of floor space ratio and site area	31
4.6 Exceptions to development standards	31
Part 5 Miscellaneous provisions	
5.1 Relevant acquisition authority	33
5.1A Development on land intended to be acquired for a public purpose	33
5.2 Classification and reclassification of public land	34
5.3 Development near zone boundaries	35
5.4 Controls relating to miscellaneous permissible uses	36
5.5 Development within the coastal zone	37
5.6 Architectural roof features	37
5.7 Development below mean high water mark	37
5.8 Conversion of fire alarms	37
5.9 Preservation of trees or vegetation	38
5.10 Heritage conservation	39
5.11 Bush fire hazard reduction	43
5.12 Infrastructure development and use of existing buildings of the Crown	43
Part 6 Additional local provisions	
6.1 Flood planning	44
6.2 Biodiversity	44
6.3 Land	45
6.4 Water	46
6.5 Earthworks	46
6.6 Public utility infrastructure	47
6.7 Specific controls on land adjoining locally significant employment site	48
Schedule 1 Additional permitted uses	49
Schedule 2 Exempt development	50
Schedule 3 Complying development	54
Schedule 4 Classification and reclassification of public land	55
Schedule 5 Environmental heritage	56
Dictionary	58

2010 No 317

Clause 1.1 Tumbarumba Local Environmental Plan 2010

Part 1 Preliminary

Tumbarumba Local Environmental Plan 2010

under the

Environmental Planning and Assessment Act 1979

Part 1 Preliminary

1.1 Name of Plan

This Plan is *Tumbarumba Local Environmental Plan 2010*.

1.1AA Commencement

This Plan commences on the day on which it is published on the NSW legislation website.

1.2 Aims of Plan

- (1) This Plan aims to make local environmental planning provisions for land in Tumbarumba in accordance with the relevant standard environmental planning instrument under section 33A of the Act.
- (2) The particular aims of this Plan are as follows:
 - (a) to develop local planning controls that manage human settlement, rural activities and the natural environment in a manner that contributes to the unique quality of Tumbarumba,
 - (b) to encourage development that supports the long term economic viability of the local community,
 - (c) to ensure development is undertaken in a manner that mitigates impacts on the natural environment,
 - (d) to encourage development that promotes positive social outcomes for the local community.

1.3 Land to which Plan applies

This Plan applies to the land identified on the Land Application Map.

1.4 Definitions

The Dictionary at the end of this Plan defines words and expressions for the purposes of this Plan.

1.5 Notes

Notes in this Plan are provided for guidance and do not form part of this Plan.

1.6 Consent authority

The consent authority for the purposes of this Plan is (subject to the Act) the Council.

1.7 Maps

- (1) A reference in this Plan to a named map adopted by this Plan is a reference to a map by that name:
 - (a) approved by the Minister when the map is adopted, and
 - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the Minister when the instruments are made.
- (2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this Plan to any such named map is a reference to the relevant part or aspect of the single map.
- (3) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.
- (4) For the purposes of this Plan, a map may be in, and may be kept and made available in, electronic or paper form, or both.

Note. The maps adopted by this Plan are to be made available on the official NSW legislation website in connection with this Plan. Requirements relating to the maps are set out in the documents entitled *Standard technical requirements for LEP maps* and *Standard requirements for LEP GIS data* which are available on the Department of Planning's website.

1.8 Repeal of other local planning instruments applying to land

- (1) All local environmental plans and deemed environmental planning instruments applying only to the land to which this Plan applies are repealed.

Note. The following local environmental plans are repealed under this provision:
Tumbarumba Local Environmental Plan 1988
- (2) All local environmental plans and deemed environmental planning instruments applying to the land to which this Plan applies and to other land cease to apply to the land to which this Plan applies.

2010 No 317

Clause 1.8A Tumbarumba Local Environmental Plan 2010

Part 1 Preliminary

1.8A Savings provision relating to development applications

If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.

Note. However, under Division 4B of Part 3 of the Act, a development application may be made for consent to carry out development that may only be carried out if the environmental planning instrument applying to the relevant development is appropriately amended or if a new instrument, including an appropriate principal environmental planning instrument, is made, and the consent authority may consider the application. The Division requires public notice of the development application and the draft environmental planning instrument allowing the development at the same time, or as closely together as is practicable.

1.9 Application of SEPPs

- (1) This Plan is subject to the provisions of any State environmental planning policy that prevails over this Plan as provided by section 36 of the Act.
- (2) The following State environmental planning policies (or provisions) do not apply to the land to which this Plan applies:

State Environmental Planning Policy No 1—Development Standards

State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development
(clause 6 and Parts 3 and 4)

State Environmental Planning Policy No 60—Exempt and Complying Development

1.9A Suspension of covenants, agreements and instruments

- (1) For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a development consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.
- (2) This clause does not apply:
 - (a) to a covenant imposed by the Council or that the Council requires to be imposed, or
 - (b) to any prescribed instrument within the meaning of section 183A of the *Crown Lands Act 1989*, or
 - (c) to any conservation agreement within the meaning of the *National Parks and Wildlife Act 1974*, or

-
- (d) to any Trust agreement within the meaning of the *Nature Conservation Trust Act 2001*, or
 - (e) to any property vegetation plan within the meaning of the *Native Vegetation Act 2003*, or
 - (f) to any biobanking agreement within the meaning of Part 7A of the *Threatened Species Conservation Act 1995*, or
 - (g) to any planning agreement within the meaning of Division 6 of Part 4 of the Act.
- (3) This clause does not affect the rights or interests of any public authority under any registered instrument.
 - (4) Under section 28 of the Act, the Governor, before the making of this clause, approved of subclauses (1)–(3).

2010 No 317

Clause 2.1 Tumberumba Local Environmental Plan 2010

Part 2 Permitted or prohibited development

Part 2 Permitted or prohibited development

2.1 Land use zones

The land use zones under this Plan are as follows:

Rural Zones

RU1 Primary Production
RU3 Forestry
RU4 Rural Small Holdings
RU5 Village

Residential Zones

R1 General Residential
R3 Medium Density Residential
R5 Large Lot Residential

Business Zones

B2 Local Centre

Industrial Zones

IN1 General Industrial
IN2 Light Industrial

Special Purpose Zones

SP2 Infrastructure

Recreation Zones

RE1 Public Recreation
RE2 Private Recreation

Environment Protection Zones

E1 National Parks and Nature Reserves
E3 Environmental Management

2.2 Zoning of land to which Plan applies

For the purposes of this Plan, land is within the zones shown on the Land Zoning Map.

2.3 Zone objectives and Land Use Table

- (1) The Land Use Table at the end of this Part specifies for each zone:
 - (a) the objectives for development, and
 - (b) development that may be carried out without consent, and

-
- (c) development that may be carried out only with consent, and
 - (d) development that is prohibited.
- (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.
 - (3) In the Land Use Table at the end of this Part:
 - (a) a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and
 - (b) a reference to a type of building or other thing does not include (despite any definition in this Plan) a reference to a type of building or other thing referred to separately in the Land Use Table in relation to the same zone.
 - (4) This clause is subject to the other provisions of this Plan.

Notes.

- 1 Schedule 1 sets out additional permitted uses for particular land.
- 2 Schedule 2 sets out exempt development (which is generally exempt from both Parts 4 and 5 of the Act). Development in the land use table that may be carried out without consent is nevertheless subject to the environmental assessment and approval requirements of Part 5 of the Act or, if applicable, Part 3A of the Act.
- 3 Schedule 3 sets out complying development (for which a complying development certificate may be issued as an alternative to obtaining development consent).
- 4 Clause 2.6 requires consent for subdivision of land.
- 5 Part 5 contains other provisions which require consent for particular development.

2.4 Unzoned land

- (1) Development may be carried out on unzoned land only with consent.
- (2) Before granting consent, the consent authority:
 - (a) must consider whether the development will impact on adjoining zoned land and, if so, consider the objectives for development in the zones of the adjoining land, and
 - (b) must be satisfied that the development is appropriate and is compatible with permissible land uses in any such adjoining land.

2.5 Additional permitted uses for particular land

- (1) Development on particular land that is described or referred to in Schedule 1 may be carried out:
 - (a) with consent, or

2010 No 317

Clause 2.6 Tumberumba Local Environmental Plan 2010

Part 2 Permitted or prohibited development

- (b) if the Schedule so provides—without consent, in accordance with the conditions (if any) specified in that Schedule in relation to that development.
- (2) This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.

2.6 Subdivision—consent requirements

- (1) Land to which this Plan applies may be subdivided, but only with consent.
- (2) However, consent is not required for a subdivision for the purpose only of any one or more of the following:
 - (a) widening a public road,
 - (b) a minor realignment of boundaries that does not create:
 - (i) additional lots or the opportunity for additional dwellings, or
 - (ii) lots that are smaller than the minimum size shown on the Lot Size Map in relation to the land concerned,
 - (c) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
 - (d) rectifying an encroachment on a lot,
 - (e) creating a public reserve,
 - (f) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.

Note. If a subdivision is exempt development, the Act enables the subdivision to be carried out without consent.

2.6AA Demolition requires consent

The demolition of a building or work may be carried out only with consent.

Note. If the demolition of a building or work is identified in an applicable environmental planning instrument, such as this Plan or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, as exempt development, the Act enables it to be carried out without consent.

2.6BB Temporary use of land

- (1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.

-
- (2) Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 182 days (whether or not consecutive days) in any period of 12 months.
 - (3) Development consent must not be granted unless the consent authority is satisfied that:
 - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and
 - (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
 - (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
 - (d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.
 - (4) Despite subclause (2), the temporary use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subclause.
 - (5) Subclause (3) (d) does not apply to the temporary use of a dwelling as a sales office mentioned in subclause (4).

Land Use Table

Note. A type of development referred to in the Land Use Table is a reference to that type of development only to the extent it is not regulated by an applicable State environmental planning policy. The following State environmental planning policies in particular may be relevant to development on land to which this Plan applies:

State Environmental Planning Policy (Affordable Rental Housing) 2009 (including provision for secondary dwellings)

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

State Environmental Planning Policy (Infrastructure) 2007 (relating to public facilities such as those for air transport, correction, education, electricity generation, health services, ports, railways, roads, waste management and water supply systems)

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

State Environmental Planning Policy (Rural Lands) 2008

State Environmental Planning Policy No 33—Hazardous and Offensive Development

State Environmental Planning Policy No 50—Canal Estate Development

State Environmental Planning Policy No 62—Sustainable Aquaculture

State Environmental Planning Policy No 64—Advertising and Signage

2010 No 317

Clause 2.6BB Tumbarumba Local Environmental Plan 2010

Part 2 Land Use Table

Zone RU1 Primary Production

1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To protect and enhance the scenic qualities of rural areas of Tumbarumba in a manner that encourages and promotes tourist orientated development and activities.

2 Permitted without consent

Extensive agriculture; Home occupations; Horticulture; Waterbodies (artificial)

3 Permitted with consent

Dwelling houses; Environmental protection works; Extractive industries; Farm buildings; Mining; Roads; Roadside stalls; Any other development not specified in item 2 or 4

4 Prohibited

Amusement centres; Attached dwellings; Boarding houses; Boat repair facilities; Bulky goods premises; Business premises; Canal estate developments; Caravan parks; Child care centres; Entertainment facilities; Exhibition homes; Exhibition villages; Food and drink premises; Health services facilities; Hostels; Hotel or motel accommodation; Industrial retail outlets; Industries; Kiosks; Multi dwelling housing; Office premises; Recreation facilities (indoor); Registered clubs; Residential flat buildings; Restricted premises; Semi-detached dwellings; Seniors housing; Service stations; Serviced apartments; Sex services premises; Shop top housing; Shops; Storage premises; Timber and building supplies; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Warehouse or distribution centres; Wholesale supplies

Zone RU3 Forestry

1 Objectives of zone

- To enable development for forestry purposes.
- To enable other development that is compatible with forestry land uses.

2 Permitted without consent

Extensive agriculture; Uses authorised under the *Forestry Act 1916*

3 Permitted with consent

Roads

4 Prohibited

Any development not specified in item 2 or 3

Zone RU4 Rural Small Holdings

1 Objectives of zone

- To enable sustainable primary industry and other compatible land uses.
- To maintain the rural and scenic character of the land.
- To ensure that development does not unreasonably increase the demand for public services or public facilities.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To protect and enhance the scenic qualities of rural areas of Tumbarumba in a manner that encourages and promotes tourist orientated development and activities.

2 Permitted without consent

Extensive agriculture; Home occupations

3 Permitted with consent

Dwelling houses; Farm buildings; Home industries; Horticulture; Roads; Roadside stalls; Any other development not specified in item 2 or 4

4 Prohibited

Airports; Airstrips; Amusement centres; Attached dwellings; Boarding houses; Boat launching ramps; Boat repair facilities; Boat sheds; Bulky

2010 No 317

Clause 2.6BB Tumbarumba Local Environmental Plan 2010

Part 2 Land Use Table

goods premises; Business premises; Depots; Canal estate developments; Car parks; Cemeteries; Charter or tourism boating facilities; Community facilities; Crematoria; Entertainment facilities; Extractive industries; Food and drink premises; Forestry; Freight transport facilities; Function centres; Highway service centres; Home occupations (sex services); Hotel or motel accommodation; Industrial retail outlets; Industries; Information and education facilities; Intensive livestock agriculture; Jetties; Kiosks; Landscape and garden supplies; Marinas; Mines; Mortuaries; Multi dwelling housing; Office premises; Passenger transport facilities; Pubs; Recreation facilities (indoor); Recreation facilities (major); Registered clubs; Residential flat buildings; Restricted premises; Restriction facilities; Rural industries; Rural workers' dwellings; Seniors housing; Service stations; Serviced apartments; Sex services premises; Shop top housing; Shops; Storage premises; Timber and building supplies; Transport depots; Turf farming; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Wholesale supplies

Zone RU5 Village

1 Objectives of zone

- To provide for a range of land uses, services and facilities that are associated with a rural village.
- To ensure development is undertaken in a manner that minimises impacts on adjoining properties.

2 Permitted without consent

Building identification signs; Home occupations; Public administration buildings

3 Permitted with consent

Child care centres; Community facilities; Dwelling houses; Light industries; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Roads; Schools; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Biosolid waste applications; Boat launching ramps; Boat repair facilities; Boat sheds; Canal estate developments; Cellar door premises; Charter or tourism boating facilities; Correctional centres; Crematoria; Extractive industries; Farm buildings; Farm stay accommodation;

Forestry; Hazardous storage establishments; Helipads; Industrial retail outlets; Industries; Jetties; Liquid fuel depots; Mining; Offensive storage establishments; Restricted premises; Restriction facilities; Rural workers' dwellings; Sex services premises; Waste or resource management facilities; Water recreation structures

Zone R1 General Residential**1 Objectives of zone**

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To promote orderly, efficient and sustainable development.
- To recognise and protect areas that contain natural and man-made structures, vegetation or areas of architectural, historic or cultural significance.
- To promote adaptable housing.
- To recognise and improve residential amenity within Tumbarumba.

2 Permitted without consent

Home occupations

3 Permitted with consent

Attached dwellings; Boarding houses; Child care centres; Community facilities; Dwelling houses; Group homes; Hostels; Kiosks; Multi dwelling housing; Neighbourhood shops; Places of public worship; Residential flat buildings; Roads; Semi-detached dwellings; Seniors housing; Shop top housing; Shops; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Biosolids treatment facilities; Boat launching ramps; Boat repair facilities; Boat sheds; Bulky goods premises; Business premises; Canal estate developments; Caravan parks; Cemeteries; Charter or tourism boating facilities; Correctional centres; Crematoria; Electricity generating works; Emergency services facilities; Entertainment facilities; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Function centres; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets;

2010 No 317

Clause 2.6BB Tumbarumba Local Environmental Plan 2010

Part 2 Land Use Table

Industries; Information and education facilities; Jetties; Landscape and garden supplies; Marinas; Mining; Mortuaries; Office premises; Passenger transport facilities; Recreation facilities (indoor); Recreation facilities (major); Registered clubs; Research stations; Restricted premises; Restriction facilities; Retail premises; Rural industries; Rural supplies; Rural workers' dwellings; Service stations; Sewage treatment plants; Sex services premises; Storage premises; Timber and building supplies; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Water recycling facilities; Water treatment facilities; Wholesale supplies

Zone R3 Medium Density Residential

1 Objectives of zone

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

2 Permitted without consent

Nil

3 Permitted with consent

Attached dwellings; Boarding houses; Child care centres; Community facilities; Group homes; Kiosks; Markets; Multi dwelling housing; Neighbourhood shops; Places of public worship; Roads; Seniors housing; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Backpackers' accommodation; Biosolids treatment facilities; Boat launching ramps; Boat repair facilities; Boat sheds; Bulky goods premises; Business premises; Canal estate developments; Car parks; Caravan parks; Cemeteries; Charter or tourism boating facilities; Correctional centres; Crematoria; Depots; Electricity generating works; Emergency services facilities; Entertainment facilities; Extractive industries; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Function centres; Helipads; Highway service centres; Home occupations (sex services); Hotel or motel

accommodation; Industrial retail outlets; Industries; Information and education facilities; Jetties; Landscape and garden supplies; Marinas; Mining; Mortuaries; Office premises; Passenger transport facilities; Recreation facilities (indoor); Recreation facilities (major); Registered clubs; Research stations; Restricted premises; Restriction facilities; Retail premises; Rural industries; Rural supplies; Rural workers' dwellings; Service stations; Sewage treatment plants; Sex services premises; Storage premises; Timber and building supplies; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Water recycling facilities; Water treatment facilities; Wholesale supplies

Zone R5 Large Lot Residential

1 Objectives of zone

- To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.
- To ensure that large residential allotments do not hinder the proper and orderly development of urban areas in the future.
- To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.

2 Permitted without consent

Home occupations

3 Permitted with consent

Dwelling houses; Roads; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Backpackers' accommodation; Biosolids treatment facilities; Boarding houses; Boat launching ramps; Boat repair facilities; Boat sheds; Bulky goods premises; Business premises; Canal estate developments; Car parks; Cellar door premises; Cemeteries; Charter or tourism boating facilities; Community facilities; Correctional centres; Crematoria; Depots; Electricity generating works; Emergency services facilities; Entertainment facilities; Extractive industries; Farm buildings; Farm

2010 No 317

Clause 2.6BB Tumbarumba Local Environmental Plan 2010

Part 2 Land Use Table

stay accommodation; Food and drink premises; Forestry; Freight transport facilities; Function centres; Group homes; Helipads; Highway service centres; Home occupations (sex services); Hostels; Hotel or motel accommodation; Industrial retail outlets; Industries; Information and education facilities; Jetties; Kiosks; Landscape and garden supplies; Marinas; Mining; Mortuaries; Multi dwelling housing; Office premises; Passenger transport facilities; Recreation facilities (indoor); Recreation facilities (major); Registered clubs; Research stations; Residential flat buildings; Restricted premises; Restriction facilities; Rural supplies; Rural workers' dwellings; Seniors housing; Service stations; Serviced apartments; Sewage treatment plants; Sex services premises; Shop top housing; Shops; Storage premises; Timber and building supplies; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Water recycling facilities; Water treatment facilities; Wholesale supplies

Zone B2 Local Centre

1 Objectives of zone

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.

2 Permitted without consent

Building identification signs; Home occupations

3 Permitted with consent

Boarding houses; Business premises; Child care centres; Community facilities; Educational establishments; Entertainment facilities; Function centres; Information and education facilities; Light industries; Office premises; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Retail premises; Roads; Service stations; Shop top housing; Tourist and visitor accommodation; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Biosolids treatment facilities; Boat launching ramps; Boat repair facilities; Boat sheds; Canal estate developments; Caravan parks; Cemeteries; Charter or

tourism boating facilities; Correctional centres; Crematoria; Depots; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Hazardous storage establishments; Helipads; Highway service centres; Industrial retail outlets; Industries; Jetties; Liquid fuel depots; Marinas; Mining; Offensive storage establishments; Research stations; Residential accommodation; Restricted premises; Restriction facilities; Rural industries; Sewage treatment plants; Sex services premises; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Waste or resource management facilities; Water recreation structures; Water recycling facilities

Zone IN1 General Industrial

1 Objectives of zone

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To facilitate industry development that supports regional economic influences.
- To support existing industry sectors within Tumbarumba that are key economic drivers.
- To foster emerging industries that broaden the economic and employment base of Tumbarumba.

2 Permitted without consent

Building identification signs

3 Permitted with consent

Depots; Freight transport facilities; Kiosks; Light industries; Markets; Neighbourhood shops; Roads; Warehouse or distribution centres; Any other development not specified in item 2 or 4

4 Prohibited

Agricultural produce industries; Agriculture; Airports; Airstrips; Amusement centres; Boat launching ramps; Boat sheds; Bulky goods premises; Business premises; Canal estate developments; Caravan parks; Cemeteries; Charter or tourism boating facilities; Child care centres; Community facilities; Correctional centres; Educational establishments; Entertainment facilities; Exhibition homes; Exhibition villages; Farm buildings; Forestry; Function centres; Health services facilities; Home-based child care; Jetties; Landscape and garden supplies; Mining; Office premises; Pubs; Recreation facilities (major);

2010 No 317

Clause 2.6BB Tumbarumba Local Environmental Plan 2010

Part 2 Land Use Table

Registered clubs; Residential accommodation; Restricted premises; Restriction facilities; Retail premises; Tourist and visitor accommodation; Water recreation structures

Zone IN2 Light Industrial

1 Objectives of zone

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To facilitate industry development that supports regional economic influences.
- To support existing industry sectors within Tumbarumba that are key economic drivers.
- To foster emerging industries that broaden the economic and employment base of Tumbarumba.

2 Permitted without consent

Building identification signs

3 Permitted with consent

Depots; Light industries; Neighbourhood shops; Roads; Warehouse or distribution centres; Any other development not specified in item 2 or 4

4 Prohibited

Agricultural produce industries; Agriculture; Boat launching ramps; Boat sheds; Bulky goods premises; Business identification signs; Business premises; Canal estate developments; Caravan parks; Cellar door premises; Cemeteries; Charter or tourism boating facilities; Child care centres; Correctional centres; Crematoria; Educational establishments; Exhibition homes; Exhibition villages; Farm buildings; Forestry; Function centres; Hazardous industries; Hazardous storage establishments; Health services facilities; Heavy industries; Highway service centres; Home-based child care; Jetties; Liquid fuel depots; Livestock processing industries; Mining; Offensive industries; Offensive storage establishments; Office premises; Recreation facilities (major); Residential accommodation; Restaurants; Restriction

facilities; Sewage treatment plants; Shops; Stock and sale yards; Tourist and visitor accommodation; Water recreation structures

Zone SP2 Infrastructure

1 Objectives of zone

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.

2 Permitted without consent

Roads

3 Permitted with consent

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose

4 Prohibited

Any development not specified in item 2 or 3

Zone RE1 Public Recreation

1 Objectives of zone

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

2 Permitted without consent

Nil

3 Permitted with consent

Advertising structures; Air transport facilities; Airstrips; Boat launching ramps; Boat sheds; Car parks; Caravan parks; Community facilities; Emergency services facilities; Entertainment facilities; Environmental facilities; Environmental protection works; Food and drink premises; Helipads; Information and education facilities; Jetties; Kiosks; Marinas; Markets; Recreation areas; Recreation facilities

2010 No 317

Clause 2.6BB Tumbarumba Local Environmental Plan 2010

Part 2 Land Use Table

(indoor); Recreation facilities (major); Recreation facilities (outdoor);
Research stations; Roads; Sewerage systems; Water supply systems

4 Prohibited

Any development not specified in item 2 or 3

Zone RE2 Private Recreation

1 Objectives of zone

- To enable land to be used for private open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

2 Permitted without consent

Nil

3 Permitted with consent

Caravan parks; Community facilities; Environmental facilities;
Environmental protection works; Kiosks; Recreation areas; Recreation
facilities (indoor); Recreation facilities (outdoor); Roads

4 Prohibited

Any development not specified in item 2 or 3

Zone E1 National Parks and Nature Reserves

1 Objectives of zone

- To enable the management and appropriate use of land that is reserved under the *National Parks and Wildlife Act 1974* or that is acquired under Part 11 of that Act.
- To enable uses authorised under the *National Parks and Wildlife Act 1974*.
- To identify land that is to be reserved under the *National Parks and Wildlife Act 1974* and to protect the environmental significance of that land.

2 Permitted without consent

Uses authorised under the *National Parks and Wildlife Act 1974*

3 Permitted with consent

Nil

4 Prohibited

Any development not specified in item 2 or 3

Zone E3 Environmental Management

1 Objectives of zone

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.
- To identify land of high conservation value and apply appropriate planning controls.
- To protect native vegetation and existing landforms for their scenic values and to maintain the unique visual identity of the landscape.
- To recognise and protect conservation reserves and sub-regional linkages to maintain viable ecosystems.

2 Permitted without consent

Home occupations

3 Permitted with consent

Boat sheds; Car parks, Community facilities; Dual occupancies; Dwelling houses; Environmental facilities; Environmental protection works; Extensive agriculture; Farm buildings, Horticulture; Recreation area; Restricted dairies; Roads; Sewerage systems; Signage; Water recreation structures; Water supply systems

4 Prohibited

Industries; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

2010 No 317

Clause 3.1 Tumburumba Local Environmental Plan 2010

Part 3 Exempt and complying development

Part 3 Exempt and complying development

3.1 Exempt development

Note. Under section 76 of the Act, exempt development may be carried out without the need for development consent under Part 4 of the Act or for assessment under Part 5 of the Act.

The section states that exempt development:

- (a) must be of minimal environmental impact, and
 - (b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), and
 - (c) cannot be carried out in a wilderness area (identified under the *Wilderness Act 1987*).
- (1) The objective of this clause is to identify development of minimal environmental impact as exempt development.
 - (2) Development specified in Schedule 2 that meets the standards for the development contained in that Schedule and that complies with the requirements of this Part is exempt development.
 - (3) To be exempt development, the development:
 - (a) must meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia* or, if there are no such relevant provisions, must be structurally adequate, and
 - (b) must not, if it relates to an existing building, cause the building to contravene the *Building Code of Australia*, and
 - (c) must not be designated development, and
 - (d) must not be carried out on land that comprises, or on which there is, an item that is listed on the State Heritage Register under the *Heritage Act 1977* or that is subject to an interim heritage order under the *Heritage Act 1977*.
 - (4) Development that relates to an existing building that is classified under the *Building Code of Australia* as class 1b or class 2–9 is exempt development only if:
 - (a) the building has a current fire safety certificate or fire safety statement, or
 - (b) no fire safety measures are currently implemented, required or proposed for the building.
 - (5) To be exempt development, the development must:
 - (a) be installed in accordance with the manufacturer's specifications, if applicable, and

- (b) not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent.

Note. A permit for the removal or pruning of a tree or other vegetation may be granted under this Plan. A development consent for the removal of native vegetation may be granted where relevant under the *Native Vegetation Act 2003*.

- (6) A heading to an item in Schedule 2 is part of that Schedule.

3.2 Complying development

Note. Under section 76A of the Act, development consent for the carrying out of complying development may be obtained by the issue of a complying development certificate.

The section states that development cannot be complying development if:

- (a) it is on land that is critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), or
 - (b) it is on land within a wilderness area (identified under the *Wilderness Act 1987*), or
 - (c) the development is designated development, or
 - (d) the development is on land that comprises, or on which there is, an item of environmental heritage (that is listed on the State Heritage Register or in Schedule 5 to this Plan or that is subject to an interim heritage order under the *Heritage Act 1977*), or
 - (e) the development requires concurrence (except a concurrence of the Director-General of the Department of Environment, Climate Change and Water in respect of development that is likely to significantly affect a threatened species, population, or ecological community, or its habitat (identified under the *Threatened Species Conservation Act 1995*)), or
 - (f) the development is on land identified as an environmentally sensitive area.
- (1) The objective of this clause is to identify development as complying development.
 - (2) Development specified in Part 1 of Schedule 3 that is carried out in compliance with:
 - (a) the development standards specified in relation to that development, and
 - (b) the requirements of this Part,
 is complying development.

Note. See also clause 5.8 (3) which provides that the conversion of fire alarms is complying development in certain circumstances.

2010 No 317

Clause 3.3 Tumburumba Local Environmental Plan 2010

Part 3 Exempt and complying development

- (3) To be complying development, the development must:
 - (a) be permissible, with consent, in the zone in which it is carried out, and
 - (b) meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
 - (c) have an approval, if required by the *Local Government Act 1993*, from the Council for an on-site effluent disposal system if the development is undertaken on unsewered land.
- (4) A complying development certificate for development specified in Part 1 of Schedule 3 is subject to the conditions (if any) set out in Part 2 of that Schedule.
- (5) A heading to an item in Schedule 3 is part of that Schedule.

3.3 Environmentally sensitive areas excluded

- (1) Exempt or complying development must not be carried out on any environmentally sensitive area for exempt or complying development.
- (2) For the purposes of this clause:
environmentally sensitive area for exempt or complying development means any of the following:
 - (a) the coastal waters of the State,
 - (b) a coastal lake,
 - (c) land to which *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests* applies,
 - (d) land reserved as an aquatic reserve under the *Fisheries Management Act 1994* or as a marine park under the *Marine Parks Act 1997*,
 - (e) land within a wetland of international significance declared under the Ramsar Convention on Wetlands or within a World heritage area declared under the World Heritage Convention,
 - (f) land within 100 metres of land to which paragraph (c), (d) or (e) applies,
 - (g) land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance,
 - (h) land reserved as a state conservation area under the *National Parks and Wildlife Act 1974*,

-
- (i) land reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna, geological formations or for other environmental protection purposes,
 - (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*.

2010 No 317

Clause 4.1 Tumberumba Local Environmental Plan 2010

Part 4 Principal development standards

Part 4 Principal development standards

4.1 Minimum subdivision lot size

- (1) The objectives of this clause are as follows:
 - (a) to ensure subdivision of land occurs in a manner that promotes suitable land uses and development,
 - (b) to ensure subdivision occurs in an economical and orderly way,
 - (c) to ensure rural lands are not fragmented in a manner that threatens their future use for agricultural production,
 - (d) to ensure subdivision does not have inappropriate impacts on the natural environment.
- (2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.
- (3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.
- (4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.
- (4A) Despite subclause (3), land in Zone R5 Large Lot Residential may be subdivided to create lots of not less than 1,000m² if the consent authority is satisfied the lots will have access to a reticulated sewer managed by the Council.

4.2 Rural subdivision

- (1) The objective of this clause is to provide flexibility in the application of standards for subdivision in rural zones to allow land owners a greater chance to achieve the objectives for development in the relevant zone.
- (2) This clause applies to the following rural zones:
 - (a) Zone RU1 Primary Production,
 - (b) Zone RU2 Rural Landscape,
 - (c) Zone RU4 Rural Small Holdings,
 - (d) Zone RU6 Transition.
- (3) Land in a zone to which this clause applies may, with consent, be subdivided for the purpose of primary production to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land.

(4) However, such a lot cannot be created if an existing dwelling would, as the result of the subdivision, be situated on the lot.

(5) A dwelling cannot be erected on such a lot.

Note. A dwelling includes a rural worker's dwelling (see definition of that term in the Dictionary).

4.2A Erection of dwelling houses on land in certain rural and environmental protection zones

(1) The objectives of this clause are as follows:

- (a) to minimise unplanned rural residential development,
- (b) to enable the replacement of lawfully erected dwelling houses in rural and environmental protection zones.

(2) This clause applies to land in the following zones:

- (a) Zone RU1 Primary Production,
- (b) Zone RU4 Rural Small Holdings,
- (c) Zone E3 Environmental Management.

(3) Development consent must not be granted for the erection of a dwelling house on a lot in a zone to which this clause applies, and on which no dwelling house has been erected, unless the lot is:

- (a) a lot that is at least the minimum lot size specified for that lot by the Lot Size Map, or
- (b) a lot created before this Plan commenced and on which the erection of a dwelling house was permissible immediately before that commencement, or
- (c) a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house would have been permissible if the plan of subdivision had been registered before that commencement, or
- (d) an existing holding, or
- (e) a lot identified as "Horticultural Land" on the Horticultural Land Map and has an area of not less than 20 hectares, on which a minimum of 10 hectares of horticulture or viticulture have been established.

Note. A dwelling cannot be erected on a lot created under clause 9 of *State Environmental Planning Policy (Rural Lands) 2008* or clause 4.2.

2010 No 317

Clause 4.2B Tumberumba Local Environmental Plan 2010

Part 4 Principal development standards

- (4) Despite any other provision of this clause, development consent may be granted for the erection of a dwelling house on land in a zone to which this clause applies if:
- (a) there is a lawfully erected dwelling house on the land and the dwelling house to be erected is intended only to replace the existing dwelling house, or
 - (b) the land would have been a lot or a holding referred to in subclause (3) had it not been affected by:
 - (i) a minor realignment of its boundaries that did not create an additional lot, or
 - (ii) a subdivision creating or widening a public road or public reserve or for another public purpose.

- (5) In this clause:

existing holding means all adjoining land, even if separated by a road or railway, held in the same ownership:

- (a) on 30 May 1975, and
- (b) at the time of lodging a development application for the erection of a dwelling house under this clause,

and includes any other land adjoining that land acquired by the owner since 30 May 1975.

Note. The owner in whose ownership all the land is at the time the application is lodged need not be the same person as the owner in whose ownership all the land was on the stated date.

4.2B No strata or community title subdivision in certain rural or environmental protection zones

- (1) The objective of this clause is to ensure that land to which this clause applies is not fragmented by subdivisions that would create additional dwelling entitlements.
- (2) This clause applies to land in the following zones that is used, or proposed to be used, for residential accommodation or tourist and visitor accommodation:
 - (a) Zone RU1 Primary Production,
 - (b) Zone RU4 Rural Small Holdings,
 - (c) Zone E3 Environmental Management.
- (3) Development consent must not be granted for the subdivision of land to which this clause applies for a strata plan or community title scheme that would create lots below the minimum size shown on the Lot Size Map for that land.

4.3 Height of buildings

Not adopted

4.4 Floor space ratio

Not adopted

4.5 Calculation of floor space ratio and site area

Not adopted

4.6 Exceptions to development standards

- (1) The objectives of this clause are:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Consent must not be granted for development that contravenes a development standard unless:
 - (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Director-General has been obtained.

2010 No 317

Clause 4.6 Tumbarumba Local Environmental Plan 2010

Part 4 Principal development standards

- (5) In deciding whether to grant concurrence, the Director-General must consider:
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (6) Consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Rural Small Holdings, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:
- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- Note.** When this Plan was made, it did not include Zone RU2 Rural Landscape, Zone RU6 Transition, Zone E2 Environmental Conservation or Zone E4 Environmental Living.
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (8) This clause does not allow consent to be granted for development that would contravene any of the following:
- (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated,
 - (c) clause 5.4,
 - (c1) clause 4.2A (3) (e) or clause 5.3.

Part 5 Miscellaneous provisions

5.1 Relevant acquisition authority

- (1) The objective of this clause is to identify, for the purposes of section 27 of the Act, the authority of the State that will be the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under Division 3 of Part 2 of the *Land Acquisition (Just Terms Compensation) Act 1991* (**the owner-initiated acquisition provisions**).

Note. If the landholder will suffer hardship if there is any delay in the land being acquired by the relevant authority, section 23 of the *Land Acquisition (Just Terms Compensation) Act 1991* requires the authority to acquire the land.

- (2) The authority of the State that will be the relevant authority to acquire land, if the land is required to be acquired under the owner-initiated acquisition provisions, is the authority of the State specified below in relation to the land shown on the Land Reservation Acquisition Map (or, if an authority of the State is not specified in relation to land required to be so acquired, the authority designated or determined under those provisions).

Type of land shown on Map	Authority of the State
Zone RE1 Public Recreation and marked "Local open space"	Council
Zone RE1 Public Recreation and marked "Regional open space"	The corporation constituted under section 8 of the Act
Zone SP2 Infrastructure and marked "Classified road"	Roads and Traffic Authority
Zone E1 National Parks and Nature Reserves and marked "National Park"	Minister administering the <i>National Parks and Wildlife Act 1974</i>

- (3) Development on land acquired by an authority of the State under the owner-initiated acquisition provisions may, before it is used for the purpose for which it is reserved, be carried out, with development consent, for any purpose.

5.1A Development on land intended to be acquired for a public purpose

- (1) The objective of this clause is to limit development on certain land intended to be acquired for a public purpose.
- (2) This clause applies to land shown on the Land Reservation Acquisition Map and specified in Column 1 of the Table to this clause and that has

2010 No 317

Clause 5.2 Tumberumba Local Environmental Plan 2010

Part 5 Miscellaneous provisions

not been acquired by the relevant authority of the State specified for the land in clause 5.1.

- (3) Development consent must not be granted to any development on land to which this clause applies other than development for a purpose specified opposite that land in Column 2 of the Table.

Column 1	Column 2
Land	Development
Zone SP2 Infrastructure and marked "Classified road"	Roads
Zone SP2 Infrastructure and marked "Local road"	Roads
Zone SP2 Infrastructure and marked "Public carpark"	Public carparks
Zone RE1 Public Recreation and marked "Local open space"	Recreation areas
Zone RE1 Public Recreation and marked "Regional open space"	Recreation areas
Zone E1 National Parks and Nature Reserves and marked "National Park"	Nil

5.2 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 4 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 4 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 4:
 - (a) does not cease to be a public reserve to the extent (if any) that it is a public reserve, and
 - (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 4, 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 4, 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 4.

5.3 Development near zone boundaries

- (1) The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.
- (2) This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 20 metres.
- (3) This clause does not apply to:
 - (a) land in Zone RE1 Public Recreation, Zone E1 National Parks and Nature Reserves, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone W1 Natural Waterways, or
 - (b) land within the coastal zone, or
 - (c) land proposed to be developed for the purpose of sex services or restricted premises.
- (4) Despite the provisions of this Plan relating to the purposes for which development may be carried out, consent may be granted to development of land to which this clause applies for any purpose that

2010 No 317

Clause 5.4 Tumberumba Local Environmental Plan 2010

Part 5 Miscellaneous provisions

may be carried out in the adjoining zone, but only if the consent authority is satisfied that:

- (a) the development is not inconsistent with the objectives for development in both zones, and
 - (b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.
- (5) The clause does not prescribe a development standard that may be varied under this Plan.

5.4 Controls relating to miscellaneous permissible uses

(1) **Bed and breakfast accommodation**

If development for the purposes of bed and breakfast accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than 3 bedrooms.

(2) **Home businesses**

If development for the purposes of a home business is permitted under this Plan, the carrying on of the business must not involve the use of more than 50 square metres of floor area.

(3) **Home industries**

If development for the purposes of a home industry is permitted under this Plan, the carrying on of the home industry must not involve the use of more than 60 square metres of floor area.

(4) **Industrial retail outlets**

If development for the purposes of an industrial retail outlet is permitted under this Plan, the retail floor area must not exceed:

- (a) 20% of the combined gross floor area of the industrial retail outlet and the building or place on which the relevant industry is carried out, or
 - (b) 400 square metres,
- whichever is the lesser.

(5) **Farm stay accommodation**

If development for the purposes of farm stay accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than 4 bedrooms.

(6) Kiosks

If development for the purposes of a kiosk is permitted under this Plan, the gross floor area must not exceed 50 square metres.

(7) Neighbourhood shops

If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed 100 square metres.

(8) Roadside stalls

If development for the purposes of a roadside stall is permitted under this Plan, the gross floor area must not exceed 20 square metres.

(9) Secondary dwellings

If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

- (a) 60 square metres,
- (b) 50% of the total floor area of both the self-contained dwelling and the principal dwelling.

5.5 Development within the coastal zone

Not applicable

5.6 Architectural roof features

Not adopted

5.7 Development below mean high water mark

Not applicable

5.8 Conversion of fire alarms

- (1) This clause applies to a fire alarm system that can be monitored by New South Wales Fire Brigades or by a private service provider.
- (2) The following development may be carried out, but only with consent:
 - (a) converting a fire alarm system from connection with the alarm monitoring system of New South Wales Fire Brigades to connection with the alarm monitoring system of a private service provider,
 - (b) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with the alarm monitoring system of another private service provider,

2010 No 317

Clause 5.9 Tumburumba Local Environmental Plan 2010

Part 5 Miscellaneous provisions

- (c) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with a different alarm monitoring system of the same private service provider.
- (3) Development to which subclause (2) applies is complying development if it consists only of:
 - (a) internal alterations to a building, or
 - (b) internal alterations to a building together with the mounting of an antenna, and any support structure, on an external wall or roof of a building so as to occupy a space of not more than 450mm × 100mm × 100mm.
- (4) A complying development certificate for any such complying development is subject to a condition that any building work may only be carried out between 7.00 am and 6.00 pm on Monday to Friday and between 7.00 am and 5.00 pm on Saturday, and must not be carried out on a Sunday or a public holiday.
- (5) In this clause:
private service provider means a person or body that has entered into an agreement that is in force with New South Wales Fire Brigades to monitor fire alarm systems.

5.9 Preservation of trees or vegetation

- (1) The objective of this clause is to preserve the amenity of the area through the preservation of trees and other vegetation.
- (2) This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council.
Note. A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.
- (3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:
 - (a) development consent, or
 - (b) a permit granted by the Council.
- (4) The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.

-
- (5) This clause does not apply to a tree or other vegetation that the Council is satisfied is dying or dead and is not required as the habitat of native fauna.
- (6) This clause does not apply to a tree or other vegetation that the Council is satisfied is a risk to human life or property.
- (7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:
- (a) that is or forms part of a heritage item, or
 - (b) that is within a heritage conservation area.

Note. As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 5.10 will be applicable to any such consent.

- (8) This clause does not apply to or in respect of:
- (a) the clearing of native vegetation that is authorised by a development consent or property vegetation plan under the *Native Vegetation Act 2003* or that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or
 - (b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the *Native Vegetation Act 2003*) that is authorised by a development consent under the provisions of the *Native Vegetation Conservation Act 1997* as continued in force by that clause, or
 - (c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the *Forestry Act 1916*, or
 - (d) action required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Roads Act 1993* or the *Surveying Act 2002*, or
 - (e) plants declared to be noxious weeds under the *Noxious Weeds Act 1993*.

5.10 Heritage conservation

Note. Heritage items, heritage conservation areas and archaeological sites (if any) are shown on the Heritage Map. The location and nature of any such item, area or site is also described in Schedule 5.

(1) Objectives

The objectives of this clause are:

- (a) to conserve the environmental heritage of Tumbarumba, and

2010 No 317

Clause 5.10 Tumbarumba Local Environmental Plan 2010

Part 5 Miscellaneous provisions

- (b) to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views, and
- (c) to conserve archaeological sites, and
- (d) to conserve places of Aboriginal heritage significance.

(2) **Requirement for consent**

Development consent is required for any of the following:

- (a) demolishing or moving a heritage item or a building, work, relic or tree within a heritage conservation area,
- (b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior,
- (c) altering a heritage item that is a building by making structural changes to its interior,
- (d) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (e) disturbing or excavating a heritage conservation area that is a place of Aboriginal heritage significance,
- (f) erecting a building on land on which a heritage item is located or that is within a heritage conservation area,
- (g) subdividing land on which a heritage item is located or that is within a heritage conservation area.

(3) **When consent not required**

However, consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
 - (i) is of a minor nature, or is for the maintenance of the heritage item, archaeological site, or a building, work, relic, tree or place within a heritage conservation area, and
 - (ii) would not adversely affect the significance of the heritage item, archaeological site or heritage conservation area, or

- (b) the development is in a cemetery or burial ground and the proposed development:
 - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
 - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to a place of Aboriginal heritage significance, or
- (c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or
- (d) the development is exempt development.

(4) Effect on heritage significance

The consent authority must, before granting consent under this clause, consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area concerned. This subclause applies regardless of whether a heritage impact statement is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) Heritage impact assessment

The consent authority may, before granting consent to any development on land:

- (a) on which a heritage item is situated, or
- (b) within a heritage conservation area, or
- (c) within the vicinity of land referred to in paragraph (a) or (b),

require a heritage impact statement to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(6) Heritage conservation management plans

The consent authority may require, after considering the significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

(7) Archaeological sites

The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than

2010 No 317

Clause 5.10 Tumbarumba Local Environmental Plan 2010

Part 5 Miscellaneous provisions

land listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies):

- (a) notify the Heritage Council of its intention to grant consent, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(8) Places of Aboriginal heritage significance

The consent authority must, before granting consent under this clause to the carrying out of development in a place of Aboriginal heritage significance:

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place, and
- (b) notify the local Aboriginal communities (in such way as it thinks appropriate) about the application and take into consideration any response received within 28 days after the notice is sent.

(9) Demolition of item of State significance

The consent authority must, before granting consent for the demolition of a heritage item identified in Schedule 5 as being of State significance (other than an item listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies):

- (a) notify the Heritage Council about the application, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(10) Conservation incentives

The consent authority may grant consent to development for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:

- (a) the conservation of the heritage item is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage conservation management plan that has been approved by the consent authority, and
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage conservation management plan is carried out, and

-
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, and
 - (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

5.11 Bush fire hazard reduction

Bush fire hazard reduction work authorised by the *Rural Fires Act 1997* may be carried out on any land without consent.

Note. The *Rural Fires Act 1997* also makes provision relating to the carrying out of development on bush fire prone land.

5.12 Infrastructure development and use of existing buildings of the Crown

- (1) This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out with or without consent, or that is exempt development, under the *State Environmental Planning Policy (Infrastructure) 2007*.
- (2) This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

2010 No 317

Clause 6.1 Tumburumba Local Environmental Plan 2010

Part 6 Additional local provisions

Part 6 Additional local provisions

6.1 Flood planning

- (1) The objectives of this clause are as follows:
 - (a) to minimise the flood risk to life and property associated with the use of land,
 - (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,
 - (c) to avoid significant adverse impacts on flood behaviour and the environment.
- (2) This clause applies to land at or below the flood planning level.
- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:
 - (a) is compatible with the flood hazard of the land, and
 - (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
 - (c) incorporates appropriate measures to manage risk to life from flood, and
 - (d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and
 - (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.
- (4) A word or expression used in this clause has the same meaning as it has in the NSW Government's *Floodplain Development Manual* published in 2005, unless it is otherwise defined in this clause.
- (5) In this clause:

flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.

6.2 Biodiversity

- (1) The objective of this clause is to maintain terrestrial and aquatic biodiversity including:
 - (a) protecting native fauna and flora, and
 - (b) protecting the ecological processes necessary for their continued existence, and

- (c) encouraging the recovery of native fauna and flora, and their habitats.
- (2) This clause applies to land identified as “sensitive land” on the Natural Resources Sensitivity—Biodiversity Map.
- (3) Before determining a development application for land to which this clause applies, the consent authority must consider any adverse impact from the proposed development on the following:
 - (a) a native ecological community,
 - (b) the habitat of any threatened species, populations or ecological communities,
 - (c) a regionally significant species of fauna and flora or habitat,
 - (d) habitat elements providing connectivity.
- (4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
 - (a) the development is designed, sited and will be managed to avoid any adverse environmental impact, or
 - (b) if that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

6.3 Land

- (1) The objective of this clause is to maintain soil resources and the diversity and stability of landscapes, including:
 - (a) protecting land with steep slopes and shallow soils, and
 - (b) protecting land subject to soil salinity, and
 - (c) protecting land with high erosion potential soils, and
 - (d) protecting land susceptible to other forms of land degradation, and
 - (e) protecting landforms.
- (2) This clause applies to all the land to which this Plan applies.
- (3) Before determining a development application for land to which this clause applies, the consent authority must consider any adverse impact from the proposed development in relation to:
 - (a) the geotechnical stability of the site, and
 - (b) the probability of increased erosion or other land degradation processes.

2010 No 317

Clause 6.4 Tumberumba Local Environmental Plan 2010

Part 6 Additional local provisions

- (4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
 - (a) the development is designed, sited and will be managed to avoid any adverse environmental impact, or
 - (b) if that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

6.4 Water

- (1) The objective of this clause is to maintain the hydrological functions of riparian land waterways and aquifers, including:
 - (a) protecting water quality, and
 - (b) protecting natural water flows, and
 - (c) protecting the stability of the bed and banks of waterways, and
 - (d) protecting groundwater systems.
- (2) This clause applies to all the land to which this Plan applies.
- (3) Before determining a development application for land to which this clause applies, the consent authority must consider any adverse impact from the proposed development on the following:
 - (a) the water quality of receiving waters,
 - (b) the natural flow regime,
 - (c) the natural flow paths of waterways,
 - (d) the stability of the bed, shore and banks of waterways,
 - (e) the flows, capacity and quality of groundwater systems.
- (4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
 - (a) the development is designed, sited and will be managed to avoid any adverse environmental impact, or
 - (b) if that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

6.5 Earthworks

- (1) The objectives of this clause are as follows:
 - (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental

functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,

- (b) to allow earthworks of a minor nature without separate development consent.
- (2) Development consent is required for earthworks unless:
- (a) the work does not alter the ground level (existing) by more than 600 millimetres, or
 - (b) the work is exempt development under this Plan or another applicable environmental planning instrument, or
 - (c) the work is ancillary to other development for which development consent has been given.
- (3) Before granting development consent for earthworks, the consent authority must consider the following matters:
- (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,
 - (b) the effect of the proposed development on the likely future use or redevelopment of the land,
 - (c) the quality of the fill or the soil to be excavated, or both,
 - (d) the effect of the proposed development on the existing and likely amenity of adjoining properties,
 - (e) the source of any fill material and the destination of any excavated material,
 - (f) the likelihood of disturbing relics,
 - (g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.

Note. The *National Parks and Wildlife Act 1974*, particularly section 86, deals with disturbing or excavating land and Aboriginal objects.

6.6 Public utility infrastructure

- (1) Development consent must not be granted for development unless the Council 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 required.
- (2) In this clause, **public utility infrastructure** includes infrastructure for any of the following:
 - (a) the supply of water,

2010 No 317

Clause 6.7 Tumbarumba Local Environmental Plan 2010

Part 6 Additional local provisions

- (b) the supply of electricity,
 - (c) the disposal and management of sewage.
- (3) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure referred to in this clause.

6.7 Specific controls on land adjoining locally significant employment site

- (1) The objective of this clause is to protect the operational environment of any industry operating on Lot A, DP 338630, Lots 532 and 702, DP 755892 and Lots 1–3, DP 1031033.
- (2) This clause applies to land identified as “Buffer Area” on the Industrial Buffer Map.
- (3) Development consent must not be granted to the carrying out of any development on land to which this clause applies unless the consent authority has:
 - (a) made an assessment of the impact that noise and other emissions from any industry carried out on the land referred to in subclause (1) would have on that development, and
 - (b) considered any opportunities to relocate the proposed development outside the area to which this clause applies, and
 - (c) made an assessment of whether the proposed development would adversely affect the operational environment of that industry.

Schedule 1 Additional permitted uses

(Clause 2.5)

(When this Plan was made this Schedule was blank)

2010 No 317

Tumbarumba Local Environmental Plan 2010

Schedule 2 Exempt development

Schedule 2 Exempt development

(Clause 3.1)

Note 1. *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* specifies exempt development under that Policy. The Policy has State-wide application. This Schedule contains additional exempt development not specified in that Policy.

Note 2. Exempt development may be carried out without the need for development consent under the Act. Such development is not exempt from any approval, licence, permit or authority that is required under any other Act and adjoining owners' property rights and the common law still apply.

Filming

- (1) **Note.** Provision repealed under the *Standard Instrument (Local Environmental Plans) Order 2006*.
- (2) May only be carried out on land:
 - (a) on which there is a heritage item, or
 - (b) within a heritage conservation area, or
 - (c) identified in clause 3.3 as an environmentally sensitive area for exempt development,if the filming does not involve or result in any of the following:
 - (d) any changes or additions that are not merely superficial and temporary to any part of a heritage item, a heritage conservation area or an environmentally sensitive area,
 - (e) the mounting or fixing of any object or article on any part of such an item or area (including any building or structure),
 - (f) the movement, parking or standing of any vehicle or equipment on or over any part of such an item or area that is not specifically designed for the movement, parking or standing of a vehicle or equipment on or over it,
 - (g) any changes to the vegetation on, or level of, such an item or area or any changes to any other natural or physical feature of the item or area.
- (3) Must not create significant interference with the neighbourhood.
- (4) The person carrying out the filming must obtain a policy of insurance that adequately covers the public liability of the person in respect of the filming for an amount of not less than \$10,000,000.
- (5) If the filming is carried out on private land, the filming must not be carried out for more than 30 days within a 12-month period at the particular location.

-
- (6) A filming management plan must be prepared and lodged with the consent authority for the location at least 5 days before the commencement of filming at the location. The plan must contain the following information and be accompanied by the following documents (without limiting the information or documents that may be submitted):
- (a) the name, address and telephone number of the person carrying out the filming (such as a production company) and of the producer for the filming,
 - (b) a brief description of the filming to be carried out (for example, a television commercial, a television series, a feature film or a documentary),
 - (c) the proposed location of the filming,
 - (d) the proposed commencement and completion dates for the filming at the location,
 - (e) the proposed daily length of filming at the location,
 - (f) the number of persons to be involved in the filming,
 - (g) details of any temporary structures (for example, tents or marquees) to be erected or used at the location for the purposes of the filming,
 - (h) the type of filming equipment to be used in the filming (such as a hand-held or mounted camera),
 - (i) proposed arrangements for parking vehicles associated with the filming during the filming,
 - (j) whether there will be any disruption to the location of the filming or the surrounding area and the amenity of the neighbourhood (for example, by the discharge of firearms or explosives, the production of offensive noise, vibrations, disruption to traffic flow or the release of smells, fumes, vapour, steam, soot, ash, dust, waste water, grit or oil),
 - (k) whether the filming will involve the use of outdoor lighting or any other special effects equipment,
 - (l) a copy of the public liability insurance policy that covers the filming at the location,
 - (m) a copy of any approval given by a public or local authority to carry out an activity associated with the proposed filming at the location, such as the following:
 - (i) an approval by the Roads and Traffic Authority for the closure of a road,
 - (ii) an approval by the Council for the erection or use of a temporary structure, closure of a road or a public footpath, or a restriction in pedestrian access,
-

2010 No 317

Tumbarumba Local Environmental Plan 2010

Schedule 2 Exempt development

- (iii) an approval by the Environment Protection Authority for an open fire,
 - (iv) an approval by the NSW Police Force for the discharge of firearms,
 - (v) an approval by the Land and Property Management Authority for the use of Crown land,
 - (n) details of any temporary alteration or addition to any building or work at the location for the purposes of the filming.
- (7) The person carrying out the filming must, at least 5 days before the commencement of filming at the particular location, give notice in writing (by way of a letter-box drop) of the filming to residents within a 50m radius of the location. The notice must contain the following information:
- (a) the name and telephone number of the person carrying out the filming (such as a production company) and of a contact representative of that person,
 - (b) a brief description of the filming to be carried out at the location, and any proposed disruptions to the location or the surrounding area or the amenity of the neighbourhood,
 - (c) the proposed commencement and completion dates for the filming at the location,
 - (d) the proposed daily length of filming at the location.

Temporary structures (other than tents and marquees), and temporary alterations or additions to buildings or works, solely for filming purposes

- (1) May only be erected, used, altered or added to in connection with filming that is exempt development.
- (2) Temporary structure must not be at the location for more than 30 days within a 12-month period.
- (3) Alteration or addition to the building or work must not remain in place for more than 30 days within a 12-month period.
- (4) Temporary structure, or building or work in its altered or added to form, must not be accessible to the public.

Tents or marquees used solely for filming purposes

- (1) May only be used in connection with filming that is exempt development.
- (2) Total floor area of all tents or marquees on location at the same time must not exceed 200m².

-
- (3) Must be located within at least 3m from any boundary adjoining a public road and at least 1m from any other boundary.
 - (4) Must have the following number of exits arranged so as to afford a ready means of egress from all parts of the tent or marquee to open space or a road:
 - (a) 1 exit if the floor area of the tent or marquee does not exceed 25m²,
 - (b) 2 exits in any other case.
 - (5) Width of each exit must be at least:
 - (a) 800mm if the floor area of the tent or marquee is less than 150m²,
or
 - (b) 1m in any other case.
 - (6) Height of the walls must not exceed:
 - (a) 4m if erected on private land, or
 - (b) 5m in any other case.
 - (7) Height as measured from the surface on which the or marquee is erected to the highest point of the tent or marquee must not exceed 6m.
 - (8) Must resist loads determined in accordance with the following Australian and New Zealand Standards entitled:
 - (a) AS/NZS 1170.0:2002, *Structural design actions—General principles*,
 - (b) AS/NZS 1170.1:2002, *Structural design actions—Permanent, imposed and other actions*,
 - (c) AS/NZS 1170.2:2002, *Structural design actions—Wind actions*.
 - (9) Must not remain at the location more than 2 days after the completion of the filming at the location.

2010 No 317

Tumbarumba Local Environmental Plan 2010

Schedule 3 Complying development

Schedule 3 Complying development

(Clause 3.2)

Note. *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* specifies complying development and the complying development conditions for that development under that Policy. The Policy has State-wide application. This Schedule contains additional complying development not specified in that Policy.

Part 1 Types of development

(When this Plan was made this Part was blank)

Part 2 Complying development certificate conditions

Note 1. Complying development must comply with the requirements of the Act, the *Environmental Planning and Assessment Regulation 2000* and this Plan.

(When this Plan was made this Part was blank)

Schedule 4 Classification and reclassification of public land

(Clause 5.2)

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

Column 1	Column 2
Locality	Description
Nil	

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

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged
Nil		

Part 3 Land classified, or reclassified, as community land

Column 1	Column 2
Locality	Description
Nil	

2010 No 317

Tumbarumba Local Environmental Plan 2010

Schedule 5 Environmental heritage

Schedule 5 Environmental heritage

(Clause 5.10)

Suburb	Item name	Address	Property description	Significance	Item number
Bringenbrong	Stem beam road bridge over Murray River	Alpine Road	GPS Co-ord 36.169177°S 148.025262°E	Local	I20
Bringenbrong	Timber road bridge over Murray River	Towong Road	GPS Co-ord 36.169177°S 147.996366°E	Local	I21
Greg Greg	Pierce Family Cemetery	Welumba Creek	Lot 1, DP 922327	Local	I10
Indi	Prestressed concrete road bridge over Murray River	Indi Road	GPS Co-ord 36.235110°S 148.035019°E	Local	I17
Indi	Steel and timber road bridge over Murray River	Upper Murray Road	GPS Co-ord 36.328770°S 148.051606°E	Local	I22
Jingellic	Road bridge over Murray River	Jingellic Road	GPS Co-ord 35.931607°S 147.701459°E	Local	I19
Mannus	McMicking Graves	Mannus Creek Road	Lot H, DP 178954	Local	I11
Rosewood	Coppabella Blacksmith Shop and Burial Plot	Coppabella Road	Part Lot 111, DP 748738	State	I23
Rosewood	Rosewood Cemetery	Coppabella Road	Lot 7009, DP 1028637; Lot 7005, DP 1056899	Local	I12
Rosewood	Maginnity Gap Memorial	Maginnity's Gap Road Reserve	Lot 1, DP 1101296	Local	I15
Rosewood	Elm Cottage	1730 Wagga Road	Lot 1, DP 1044043	Local	I1

Suburb	Item name	Address	Property description	Significance	Item number
Tintaldra	Reinforced concrete road bridge over Murray River	Tintaldra Road	GPS Co-ord 36.045815°S 147.932298°E	Local	I8
Tooma	Tooma Hotel	Possum Point Road	Lot 6, DP 527933	Local	I2
Tumbarumba	Wolters Cottage	80 Albury Street	Lots 778 and 779, DP 47976	Local	I7
Tumbarumba	Union Jack Memorial	Batlow Road	Lot 755, DP 755892	Local	I14
Tumbarumba	Tumbarumba Court House	Bridge Street	Lot 7019, DP 1001035	Local	I3
Tumbarumba	Tumbarumba Pioneer Cemetery	Cemetery Road	Lot 7033, DP 1001030	Local	I9
Tumbarumba	Tumbarumba Post Office	Murray Street	Lot 24, DP 1104086	Local	I5
Tumbarumba	Tumbarumba Public School	Murray Street	Lot 3, Section 8, DP 759003	Local	I6
Tumbarumba	Tumbarumba Police Station	Winton Street	Lot 7018, DP 1001035	Local	I4
Welaregang	Dungowan Homestead Aboriginal scar tree and three graves	Tintaldra Road	Lot 1, DP 456682	Local	I16
Willigobung	Welaregang Cemetery	River Road	Lot 134, DP 755896	Local	I13
Willigobung	Willigobung Cemetery	117 Willigobung North Road	Lot 157, DP 757223	Local	I8

Dictionary

(Clause 1.4)

Aboriginal object means any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

acid sulfate soils means naturally occurring sediments and soils containing iron sulfides (principally pyrite) or their precursors or oxidation products, whose exposure to oxygen leads to the generation of sulfuric acid (for example, by drainage or excavation).

Acid Sulfate Soils Manual means the manual by that name published by the Acid Sulfate Soils Management Advisory Committee and made publicly available.

advertisement has the same meaning as in the Act.

Note. The term is defined as a sign, notice, device or representation in the nature of an advertisement visible from any public place or public reserve or from any navigable water.

advertising structure has the same meaning as in the Act.

Note. The term is defined as a structure used or to be used principally for the display of an advertisement.

affordable housing has the same meaning as in the Act.

Note. The term is defined as housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.

agricultural produce industry means an industry involving the handling, treating, processing or packing of produce from agriculture (including dairy products, seeds, fruit, vegetables or other plant material), and includes flour mills, cotton seed oil plants, cotton gins, feed mills, cheese and butter factories, and juicing or canning plants, but does not include a livestock processing industry.

agriculture means any of the following:

- (a) animal boarding or training establishments,
- (b) aquaculture,
- (c) extensive agriculture,
- (d) farm forestry,
- (e) intensive livestock agriculture,
- (f) intensive plant agriculture.

air transport facility means an airport or a heliport that is not part of an airport, and includes associated communication and air traffic control facilities or structures.

airport means a place used for the landing, taking off, parking, maintenance or repair of aeroplanes (including associated buildings, installations, facilities and movement areas and any heliport that is part of the airport).

airstrip means a single runway for the landing, taking off or parking of aeroplanes for private aviation only, but does not include an airport, heliport or helipad.

amusement centre means a building or place (not being part of a pub or registered club) used principally for playing:

- (a) billiards, pool or other like games, or
- (b) electronic or mechanical amusement devices, such as pinball machines, computer or video games and the like.

animal boarding or training establishment means a building or place used for the breeding, boarding, training, keeping or caring of animals for commercial purposes (other than for the agistment of horses), and includes any associated riding school or ancillary veterinary hospital.

aquaculture has the same meaning as in the *Fisheries Management Act 1994*.

Note. The term is defined as follows:

aquaculture means:

- (a) cultivating fish or marine vegetation for the purposes of harvesting the fish or marine vegetation or their progeny with a view to sale, or
- (b) keeping fish or marine vegetation in a confined area for a commercial purpose (such as a fish-out pond),

but does not include:

- (c) keeping anything in a pet shop for sale or in an aquarium for exhibition (including an aquarium operated commercially), or
- (d) anything done for the purposes of maintaining a collection of fish or marine vegetation otherwise than for a commercial purpose, or
- (e) any other thing prescribed by the regulations (made under the *Fisheries Management Act 1994*).

This Dictionary also contains definitions of ***natural water-based aquaculture***, ***pond-based aquaculture*** and ***tank-based aquaculture***.

archaeological site means an area of land:

- (a) shown on the Heritage Map as an archaeological site, and
- (b) the location and nature of which is described in Schedule 5, and
- (c) that contains one or more relics.

attached dwelling means a building containing 3 or more dwellings, where:

- (a) each dwelling is attached to another dwelling by a common wall, and
- (b) each of the dwellings is on its own lot of land (not being an individual lot in a strata plan or community title scheme), and
- (c) none of the dwellings is located above any part of another dwelling.

attic means any habitable space, but not a separate dwelling, contained wholly within a roof above the ceiling line of the storey immediately below, except for minor elements such as dormer windows and the like.

2010 No 317

Tumbarumba Local Environmental Plan 2010

Dictionary

backpackers' accommodation means tourist and visitor accommodation:

- (a) that has shared facilities, such as a communal bathroom, kitchen or laundry, and
- (b) that will generally provide accommodation on a bed basis (rather than by room).

basement means the space of a building where the floor level of that space is predominantly below ground level (existing) and where the floor level of the storey immediately above is less than 1 metre above ground level (existing).

bed and breakfast accommodation means tourist and visitor accommodation comprising a dwelling (and any ancillary buildings and parking) where the accommodation is provided by the permanent residents of the dwelling and:

- (a) meals are provided for guests only, and
- (b) cooking facilities for the preparation of meals are not provided within guests' rooms, and
- (c) dormitory-style accommodation is not provided.

Note. See clause 5.4 for controls relating to the number of bedrooms.

biodiversity means biological diversity.

biological diversity has the same meaning as in the *Threatened Species Conservation Act 1995*.

Note. The term is defined as follows:

biological diversity means the diversity of life and is made up of the following 3 components:

- (a) genetic diversity—the variety of genes (or units of heredity) in any population,
- (b) species diversity—the variety of species,
- (c) ecosystem diversity—the variety of communities or ecosystems.

biosolid waste application means the application of sludge or other semi-solid products of human sewage treatment plants to land for the purpose of improving land productivity, that is undertaken in accordance with the NSW Environment Protection Authority's guidelines titled *Environmental Guidelines: Use and Disposal of Biosolids Products* (EPA 1997) and *Addendum to Environmental Guidelines: Use and Disposal of Biosolids Products* (EPA 2000a).

biosolids treatment facility means a building or place used as a facility for the treatment of biosolids from a sewage treatment plant or from a water recycling facility.

boarding house means a building:

- (a) that is wholly or partly let in lodgings, and
- (b) that provides lodgers with a principal place of residence for 3 months or more, and
- (c) that may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and

(d) that has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,

but does not include backpackers' accommodation, a group home, a serviced apartment, seniors housing or hotel or motel accommodation.

boat launching ramp means a structure designed primarily for the launching of trailer borne recreational vessels, and includes associated car parking facilities.

boat repair facility means any facility (including a building or other structure) used primarily for the construction, maintenance or repair of boats, whether or not including the storage, sale or hire of boats, but does not include a marina or boat shed.

boat shed means a building or other structure used for the storage and routine maintenance of a boat or boats and that is associated with a private dwelling or non-profit organisation, and includes any skid used in connection with the building or other structure.

brothel has the same meaning as in the Act.

building has the same meaning as in the Act.

Note. The term is defined to include part of a building and any structure or part of a structure, but not including a manufactured home, a moveable dwelling or associated structure (or part of a manufactured home, moveable dwelling or associated structure).

building height (or **height of building**) means the vertical distance between ground level (existing) at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

building identification sign means a sign that identifies or names a building and that may include the name of a building, the street name and number of a building, and a logo or other symbol, but that does not include general advertising of products, goods or services.

building line or **setback** means the horizontal distance between the property boundary or other stated boundary (measured at 90 degrees from the boundary) and:

- (a) a building wall, or
- (b) the outside face of any balcony, deck or the like, or
- (c) the supporting posts of a carport or verandah roof,

whichever distance is the shortest.

bulky goods premises means a building or place used primarily for the sale by retail, wholesale or auction of (or for the hire or display of) bulky goods, being goods that are of such size or weight as to require:

- (a) a large area for handling, display or storage, or
- (b) direct vehicular access to the site of the building or place by members of the public for the purpose of loading or unloading such goods into or from their vehicles after purchase or hire,

but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale or hire or display of bulky goods.

2010 No 317

Tumbarumba Local Environmental Plan 2010

Dictionary

bush fire hazard reduction work has the same meaning as in the *Rural Fires Act 1997*.

Note. The term is defined as follows:

bush fire hazard reduction work means:

- (a) the establishment or maintenance of fire breaks on land, and
- (b) the controlled application of appropriate fire regimes or other means for the reduction or modification of available fuels within a predetermined area to mitigate against the spread of a bush fire,

but does not include construction of a track, trail or road.

bush fire prone land has the same meaning as in the Act.

Note. The term is defined, in relation to an area, as land recorded for the time being as bush fire prone land on a map for the area certified as referred to in section 146 (2) of the Act.

bush fire risk management plan means a plan prepared under Division 4 of Part 3 of the *Rural Fires Act 1997* for the purpose referred to in section 54 of that Act.

business identification sign means a sign:

- (a) that indicates:
 - (i) the name of the person or business, and
 - (ii) the nature of the business carried on by the person at the premises or place at which the sign is displayed, and
- (b) that may include the address of the premises or place and a logo or other symbol that identifies the business,

but that does not include any advertising relating to a person who does not carry on business at the premises or place.

business premises means a building or place at or on which:

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
- (b) a service is provided directly to members of the public on a regular basis, and may include, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, medical centres, betting agencies and the like, but does not include sex services premises.

canal estate development means development that incorporates wholly or in part a constructed canal, or other waterway or waterbody, that is inundated by or drains to a natural waterway or natural waterbody by surface water or groundwater movement (not being works of drainage, or for the supply or treatment of water, that are constructed by or with the authority of a person or body responsible for those functions and that are limited to the minimal reasonable size and capacity to meet a demonstrated need for the works), and that either:

- (a) includes the construction of dwellings (which may include tourist and visitor accommodation) of a kind other than, or in addition to:
 - (i) dwellings that are permitted on rural land, and
 - (ii) dwellings that are used for caretaker or staff purposes, or

-
- (b) requires the use of a sufficient depth of fill material to raise the level of all or part of that land on which the dwellings are (or are proposed to be) located in order to comply with requirements relating to residential development on flood prone land.

car park means a building or place primarily used for the purpose of parking motor vehicles, including any manoeuvring space and access thereto, whether operated for gain or not.

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

catchment action plan has the same meaning as in the *Catchment Management Authorities Act 2003*.

Note. The term is defined as a catchment action plan of an authority that has been approved by the Minister under Part 4 of the *Catchment Management Authorities Act 2003*.

cellar door premises means retail premises that sell wine by retail and that are situated on land on which there is a commercial vineyard, where all of the wine offered for sale is produced in a winery situated on that land or is produced predominantly from grapes grown in the surrounding area.

cemetery means a building or place for the interment of deceased persons or their ashes.

charter and tourism boating facility means any facility (including a building or other structure) used for charter boating or tourism boating purposes, being a facility that is used only by the operators of the facility and that has a direct structural connection between the foreshore and the waterway, but does not include a marina.

child care centre means a building or place used for the supervision and care of children that:

- (a) provides long day care, pre-school care, occasional child care or out-of-school-hours care, and
- (b) does not provide overnight accommodation for children other than those related to the owner or operator of the centre,

but does not include:

- (c) a building or place used for home-based child care, or
- (d) an out-of-home care service provided by an agency or organisation accredited by the Children's Guardian, or
- (e) a baby-sitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a service provided for fewer than 5 children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised, or
- (g) a regular child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium), by or on behalf of

2010 No 317

Tumbarumba Local Environmental Plan 2010

Dictionary

the person conducting the facility, to care for children while the children's parents are using the facility, or

- (h) a service that is concerned primarily with the provision of:
 - (i) lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or
 - (ii) private tutoring, or
- (i) a school, or
- (j) a service provided at exempt premises (within the meaning of Chapter 12 of the *Children and Young Persons (Care and Protection) Act 1998*), such as hospitals, but only if the service is established, registered or licensed as part of the institution operating on those premises.

classified road has the same meaning as in the *Roads Act 1993*.

Note. The term is defined as follows:

classified road means any of the following:

- (a) a main road,
- (b) a highway,
- (c) a freeway,
- (d) a controlled access road,
- (e) a secondary road,
- (f) a tourist road,
- (g) a tollway,
- (h) a transitway,
- (i) a State work.

(See *Roads Act 1993* for meanings of these terms.)

clearing native vegetation has the same meaning as in the *Native Vegetation Act 2003*.

Note. The term is defined as follows:

clearing native vegetation means any one or more of the following:

- (a) cutting down, felling, thinning, logging or removing native vegetation,
- (b) killing, destroying, poisoning, ringbarking, uprooting or burning native vegetation.

(See Division 3 of Part 3 of the *Native Vegetation Act 2003* for the exclusion of routine agricultural management and other farming activities from constituting the clearing of native vegetation if the landholder can establish that any clearing was carried out for the purpose of those activities.)

coastal foreshore means land with frontage to a beach, estuary, coastal lake, headland, cliff or rock platform.

coastal lake means a body of water specified in Schedule 1 to the *State Environmental Planning Policy No 71—Coastal Protection*.

coastal waters of the State—see section 58 of the *Interpretation Act 1987*.

coastal zone has the same meaning as in the *Coastal Protection Act 1979*.

Note. The term is defined as follows:

coastal zone means:

- (a) the area within the coastal waters of the State as defined in Part 10 of the *Interpretation Act 1987* (including any land within those waters), and
- (b) the area of land and the waters that lie between the western boundary of the coastal zone (as shown on the maps outlining the coastal zone) and the landward boundary of the coastal waters of the State, and
- (c) the seabed (if any) and the subsoil beneath, and the airspace above, the areas referred to in paragraphs (a) and (b).

The coastal zone consists of the area between the western boundary of the coastal zone shown on the maps outlining the coastal zone and the outermost boundary of the coastal waters of the State. The coastal waters of the State extend, generally, to 3 nautical miles from the coastline of the State.

community facility means a building or place:

- (a) owned or controlled by a public authority or non-profit community organisation, and
- (b) used for the physical, social, cultural or intellectual development or welfare of the community,

but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

community land has the same meaning as in the *Local Government Act 1993*.

correctional centre means:

- (a) any premises declared to be a correctional centre by a proclamation in force under section 225 of the *Crimes (Administration of Sentences) Act 1999*, including any juvenile correctional centre or periodic detention centre, and
- (b) any premises declared to be a detention centre by an order in force under section 5 (1) of the *Children (Detention Centres) Act 1987*,

but does not include any police station or court cell complex in which a person is held in custody in accordance with any Act.

Council means the Tumbarumba Shire Council.

crematorium means a building in which deceased persons or pets are cremated, and includes a funeral chapel.

Crown reserve means:

- (a) a reserve within the meaning of Part 5 of the *Crown Lands Act 1989*, or
- (b) a common within the meaning of the *Commons Management Act 1989*, or
- (c) lands within the meaning of the *Trustees of Schools of Arts Enabling Act 1902*,

but does not include land that forms any part of a reserve under Part 5 of the *Crown Lands Act 1989* provided for accommodation.

2010 No 317

Tumbarumba Local Environmental Plan 2010

Dictionary

curtilage, in relation to a heritage item or conservation area, means the area of land (including land covered by water) surrounding a heritage item, a heritage conservation area, or building, work or place within a heritage conservation area, that contributes to its heritage significance.

dairy (pasture-based) means a dairy where the only restriction facilities present are the milking sheds and holding yards and where cattle are constrained for no more than 10 hours in any 24 hour period (excluding during any period of drought or similar emergency relief).

demolish, in relation to a heritage item, or a building, work, relic or tree within a heritage conservation area, means wholly or partly destroy, dismantle or deface the heritage item or the building, work, relic or tree.

depot means a building or place used for the storage (but not sale or hire) of plant, machinery or other goods (that support the operations of an existing undertaking) when not required for use.

drainage means any activity that intentionally alters the hydrological regime of any locality by facilitating the removal of surface or ground water. It may include the construction, deepening, extending, opening, installation or laying of any canal, drain or pipe, either on the land or in such a manner as to encourage drainage of adjoining land.

dual occupancy means 2 dwellings (whether attached or detached) on one lot of land (not being an individual lot in a strata plan or community title scheme), but does not include a secondary dwelling.

dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

dwelling house means a building containing only one dwelling.

earthworks means excavation or filling.

ecologically sustainable development has the same meaning as in the Act.

educational establishment means a building or place used for education (including teaching), being:

- (a) a school, or
- (b) a tertiary institution, including a university or a TAFE establishment, that provides formal education and is constituted by or under an Act.

electricity generating works means a building or place used for the purpose of making or generating electricity.

emergency services facility means a building or place (including a helipad) used in connection with the provision of emergency services by an emergency services organisation.

emergency services organisation means any of the following:

- (a) the Ambulance Service of New South Wales,
- (b) New South Wales Fire Brigades,
- (c) the NSW Rural Fire Service,

- (d) the NSW Police Force,
- (e) the State Emergency Service,
- (f) the New South Wales Volunteer Rescue Association Incorporated,
- (g) the New South Wales Mines Rescue Brigade established under the *Coal Industry Act 2001*,
- (h) an accredited rescue unit within the meaning of the *State Emergency and Rescue Management Act 1989*.

entertainment facility means a theatre, cinema, music hall, concert hall, dance hall and the like, but does not include a pub or registered club.

environmental facility means a building or place that provides for the recreational use or scientific study of natural systems, and includes walking tracks, seating, shelters, board walks, observation decks, bird hides or the like, and associated display structures.

environmental protection works means works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works, wetland protection works, erosion protection works, dune restoration works and the like.

estuary has the same meaning as in the *Water Management Act 2000*.

Note. The term is defined as follows:

estuary means:

- (a) any part of a river whose level is periodically or intermittently affected by coastal tides, or
- (b) any lake or other partially enclosed body of water that is periodically or intermittently open to the sea, or
- (c) anything declared by the regulations (under the *Water Management Act 2000*) to be an estuary,

but does not include anything declared by the regulations (under the *Water Management Act 2000*) not to be an estuary.

excavation means the removal of soil or rock, whether moved to another part of the same site or to another site, but does not include garden landscaping that does not significantly alter the shape, natural form or drainage of the land.

exhibition home means a dwelling built for the purposes of the public exhibition and marketing of new dwellings, whether or not it is intended to be sold as a private dwelling after its use for those purposes is completed, and includes any associated sales or home finance office or place used for displays.

exhibition village means 2 or more exhibition homes and associated buildings and places used for house and land sales, site offices, advisory services, car parking, food and drink sales and other associated purposes.

extensive agriculture means:

- (a) the production of crops or fodder (including irrigated pasture and fodder crops), or

2010 No 317

Tumbarumba Local Environmental Plan 2010

Dictionary

(b) the grazing of livestock, or

(c) bee keeping,

for commercial purposes, but does not include any of the following:

(d) animal boarding or training establishments,

(e) aquaculture,

(f) farm forestry,

(g) intensive livestock agriculture,

(h) intensive plant agriculture.

extractive industry means the winning or removal of extractive materials (otherwise than from a mine) by methods such as excavating, dredging, tunnelling or quarrying, including the storing, stockpiling or processing of extractive materials by methods such as recycling, washing, crushing, sawing or separating, but does not include turf farming.

extractive material means sand, soil, gravel, rock or similar substances that are not minerals within the meaning of the *Mining Act 1992*.

farm building means a structure the use of which is ancillary to an agricultural use of the landholding on which it is situated and includes a hay shed, stock holding yard, machinery shed, shearing shed, silo, storage tank, outbuilding or the like, but does not include a dwelling.

farm stay accommodation means tourist and visitor accommodation provided to paying guests on a working farm as a secondary business to primary production.

Note. See clause 5.4 for controls relating to the number of bedrooms.

feedlot means a confined or restricted area used to rear and fatten cattle, sheep or other animals for the purpose of meat production, fed (wholly or substantially) on prepared and manufactured feed, but does not include a poultry farm, dairy or piggery.

fill means the depositing of soil, rock or other similar extractive material obtained from the same or another site, but does not include:

(a) the depositing of topsoil or feature rock imported to the site that is intended for use in garden landscaping, turf or garden bed establishment or top dressing of lawns and that does not significantly alter the shape, natural form or drainage of the land, or

(b) the use of land as a waste disposal facility.

filming means recording images (whether on film or video tape or electronically or by other means) for exhibition or broadcast (such as by cinema, television or the internet or by other means), but does not include:

(a) still photography, or

(b) recording images of a wedding ceremony or other private celebration or event principally for the purpose of making a record for the participants in the ceremony, celebration or event, or

-
- (c) recording images as a visitor or tourist for non-commercial purposes, or
 - (d) recording for the immediate purposes of a television program that provides information by way of current affairs or daily news.

fish has the same meaning as in the *Fisheries Management Act 1994*.

Note. The term is defined as follows:

Definition of “fish”

- (1) **Fish** means marine, estuarine or freshwater fish or other aquatic animal life at any stage of their life history (whether alive or dead).
- (2) **Fish** includes:
 - (a) oysters and other aquatic molluscs, and
 - (b) crustaceans, and
 - (c) echinoderms, and
 - (d) beachworms and other aquatic polychaetes.
- (3) **Fish** also includes any part of a fish.
- (4) However, **fish** does not include whales, mammals, reptiles, birds, amphibians or other things excluded from the definition by the regulations under the *Fisheries Management Act 1994*.

flood mitigation work means work designed and constructed for the express purpose of mitigating flood impacts. It involves changing the characteristics of flood behaviour to alter the level, location, volume, speed or timing of flood waters to mitigate flood impacts. Types of works may include excavation, construction or enlargement of any fill, wall, or levee that will alter riverine flood behaviour, local overland flooding, or tidal action so as to mitigate flood impacts.

floor space ratio—see clause 4.5.

Floor Space Ratio Map means the Tumbarumba Local Environmental Plan 2010 Floor Space Ratio Map. [Not adopted]

food and drink premises means retail premises used for the preparation and retail sale of food or drink for immediate consumption on or off the premises, and includes restaurants, cafes, take away food and drink premises, milk bars and pubs.

forestry has the same meaning as **forestry operations** in the *Forestry and National Park Estate Act 1998*.

Note. The term is defined as follows:

forestry operations means:

- (a) logging operations, namely, the cutting and removal of timber from land for the purpose of timber production, or
- (b) forest products operations, namely, the harvesting of products of trees, shrubs and other vegetation (other than timber) that are of economic value, or
- (c) on-going forest management operations, namely, activities relating to the management of land for timber production such as thinning, bush fire hazard reduction, bee-keeping, grazing and other silvicultural activities, or
- (d) ancillary road construction, namely, the provision of roads and fire trails, and the maintenance of existing railways, to enable or assist in the above operations.

2010 No 317

Tumbarumba Local Environmental Plan 2010

Dictionary

freight transport facility means a facility used principally for the bulk handling of goods for transport by road, rail, air or sea, including any facility for the loading and unloading of vehicles, aircraft, vessels or containers used to transport those goods and for the parking, holding, servicing or repair of those vehicles, aircraft or vessels or for the engines or carriages involved.

function centre means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.

funeral chapel means premises used to arrange, conduct and cater for funerals and memorial services, and includes facilities for the short-term storage, dressing and viewing of bodies of deceased persons, but does not include premises with mortuary facilities.

funeral home means premises used to arrange and conduct funerals and memorial services, and includes facilities for the short-term storage, dressing and viewing of bodies of deceased persons and premises with mortuary facilities.

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes:
 - (d) any area for common vertical circulation, such as lifts and stairs, and
 - (e) any basement:
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
 - (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
 - (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
 - (h) any space used for the loading or unloading of goods (including access to it), and
 - (i) terraces and balconies with outer walls less than 1.4 metres high, and
 - (j) voids above a floor at the level of a storey or storey above.

ground level (existing) means the existing level of a site at any point.

ground level (finished) means, for any point on a site, the ground surface after completion of any earthworks (excluding any excavation for a basement, footings or the like) for which consent has been granted or that is exempt development.

ground level (mean) means, for any site on which a building is situated or proposed, one half of the sum of the highest and lowest levels at ground level (finished) of the outer surface of the external walls of the building.

group home means a dwelling that is a permanent group home or a transitional group home.

group home (permanent) or permanent group home means a dwelling:

- (a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and
- (b) that is used to provide permanent household accommodation for people with a disability or people who are socially disadvantaged,

but does not include development to which *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* applies.

group home (transitional) or transitional group home means a dwelling:

- (a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and
- (b) that is used to provide temporary accommodation for the relief or rehabilitation of people with a disability or for drug or alcohol rehabilitation purposes, or that is used to provide half-way accommodation for persons formerly living in institutions or temporary accommodation comprising refuges for men, women or young people,

but does not include development to which *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* applies.

hazardous industry means development for the purpose of an industry that, when the development is in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the development from existing or likely future development on other land in the locality), would pose a significant risk in the locality:

- (a) to human health, life or property, or
- (b) to the biophysical environment.

hazardous storage establishment means any establishment where goods, materials or products are stored that, when in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the establishment from existing or likely future development on other land in the locality), would pose a significant risk in the locality:

- (a) to human health, life or property, or
- (b) to the biophysical environment.

headland includes a promontory extending from the general line of the coastline into a large body of water, such as a sea, coastal lake or bay.

2010 No 317

Tumbarumba Local Environmental Plan 2010

Dictionary

health care professional means any person registered under an Act for the purpose of providing health care.

health consulting rooms means a medical centre that comprises one or more rooms within (or within the curtilage of) a dwelling house used by not more than 3 health care professionals who practise in partnership (if there is more than one such professional) who provide professional health care services to members of the public.

health services facility means a building or place used as a facility to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes the following:

- (a) day surgeries and medical centres,
- (b) community health service facilities,
- (c) health consulting rooms,
- (d) facilities for the transport of patients, including helipads and ambulance facilities,
- (e) hospitals.

heavy industry means an industry that requires separation from other land uses because of the nature of the processes involved, or the materials used, stored or produced. It may consist of or include a hazardous or offensive industry or involve the use of a hazardous or offensive storage establishment.

Height of Buildings Map means the Tumbarumba Local Environmental Plan 2010 Height of Buildings Map.[Not adopted]

helipad means a place not open to the public used for the taking off and landing of helicopters.

heliport means a place open to the public used for the taking off and landing of helicopters, whether or not it includes:

- (a) a terminal building, or
- (b) facilities for the parking, storage or repair of helicopters.

heritage conservation area means an area of land:

- (a) shown on the Heritage Map as a heritage conservation area or as a place of Aboriginal heritage significance, and
 - (b) the location and nature of which is described in Schedule 5,
- and includes any heritage items situated on or within that area.

heritage conservation management plan means a document prepared in accordance with guidelines prepared by the Department of Planning that documents the heritage significance of an item, place or heritage conservation area and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

heritage impact statement means a document consisting of:

- (a) a statement demonstrating the heritage significance of a heritage item, archaeological site, place of Aboriginal heritage significance or other heritage conservation area, and
- (b) an assessment of the impact that proposed development will have on that significance, and
- (c) proposals for measures to minimise that impact.

heritage item means a building, work, archaeological site, tree, place or Aboriginal object:

- (a) shown on the Heritage Map as a heritage item, and
- (b) the location and nature of which is described in Schedule 5, and
- (c) specified in an inventory of heritage items that is available at the office of the Council.

Heritage Map means the Tumbarumba Local Environmental Plan 2010 Heritage Map.

heritage significance means historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value.

highway service centre means a building or place used as a facility to provide refreshments and vehicle services to highway users, and which may include any one or more of the following:

- (a) restaurants or take away food and drink premises,
- (b) service stations and facilities for emergency vehicle towing and repairs,
- (c) parking for vehicles,
- (d) rest areas and public amenities.

home-based child care means a dwelling used by a resident of the dwelling for the supervision and care of one or more children and that satisfies the following conditions:

- (a) the service is licensed within the meaning of the *Children and Young Persons (Care and Protection) Act 1998*,
- (b) the number of children (including children related to the carer or licensee) does not at any one time exceed 7 children under the age of 12 years, including no more than 5 who do not ordinarily attend school.

home business means a business carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:

- (a) the employment of more than 2 persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or

2010 No 317

Tumbarumba Local Environmental Plan 2010

Dictionary

- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or
- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the business carried on in the dwelling), or
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building,

but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.

Note. See clause 5.4 for controls relating to the floor area used to carry on the business.

home industry means a light industry carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:

- (a) the employment of more than 2 persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or
- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the light industry carried on in the dwelling), or
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building,

but does not include bed and breakfast accommodation or sex services premises.

Note. See clause 5.4 for controls relating to the floor area used to carry on the home industry.

home occupation means an occupation carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:

- (a) the employment of persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
- (c) the display of goods, whether in a window or otherwise, or
- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the occupation carried on in the dwelling), or

- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail,

but does not include bed and breakfast accommodation, a brothel or home occupation (sex services).

home occupation (sex services) means the provision of sex services in a dwelling that is a brothel, or in a building that is a brothel and is ancillary to such a dwelling, by no more than 2 permanent residents of the dwelling and that does not involve:

- (a) the employment of persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, traffic generation or otherwise, or
- (c) the exhibition of any notice, advertisement or sign, or
- (d) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail,

but does not include a home business or sex services premises.

Horticultural Land Map means the Tumbarumba Local Environmental Plan 2010 Horticultural Land Map.

horticulture means the cultivation of fruits, vegetables, mushrooms, nuts, cut flowers and foliage and nursery products for commercial purposes, but does not include retail sales or viticulture.

hospital means a building or place used for the purpose of providing professional health care services (such as preventative or convalescent care, diagnosis, medical or surgical treatment, psychiatric care or care for people with disabilities, or counselling services provided by health care professionals) to people admitted as in-patients (whether or not out-patients are also cared for or treated there), and includes ancillary facilities for (or that consist of) any of the following:

- (a) day surgery, day procedures or health consulting rooms,
- (b) accommodation for nurses or other health care workers,
- (c) accommodation for persons receiving health care or for their visitors,
- (d) shops or refreshment rooms,
- (e) transport of patients, including helipads, ambulance facilities and car parking,
- (f) educational purposes or any other health-related use,
- (g) research purposes (whether or not it is carried out by hospital staff or health care workers or for commercial purposes),
- (h) chapels,
- (i) hospices,
- (j) mortuaries.

2010 No 317

Tumbarumba Local Environmental Plan 2010

Dictionary

hostel means premises that are generally staffed by social workers or support providers and at which:

- (a) residential accommodation is provided in dormitories, or on a single or shared basis, or by a combination of them, and
- (b) cooking, dining, laundering, cleaning and other facilities are provided on a shared basis.

hotel or motel accommodation means tourist and visitor accommodation (whether or not licensed premises under the *Liquor Act 2007*):

- (a) comprising rooms or self-contained suites, and
- (b) that may provide meals to guests or the general public and facilities for the parking of guests' vehicles,

but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

Industrial Buffer Map means the Tumbarumba Local Environmental Plan 2010 Industrial Buffer Map.

industrial retail outlet means a building or place that:

- (a) is used in conjunction with an industry (including a light industry) but not in conjunction with a warehouse or distribution centre, and
- (b) is situated on the land on which the industry is carried out, and
- (c) is used for the display or sale (whether by retail or wholesale) of only those goods that have been manufactured on the land on which the industry is carried out.

Note. See clause 5.4 for controls relating to the retail floor area.

industry means the manufacturing, production, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, transforming, processing or adapting, or the research and development of any goods, chemical substances, food, agricultural or beverage products, or articles for commercial purposes, but does not include extractive industry or a mine.

information and education facility means a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.

intensive livestock agriculture means the keeping or breeding, for commercial purposes, of cattle, poultry, goats, horses or other livestock, that are fed wholly or substantially on externally-sourced feed, and includes the operation of feed lots, piggeries, poultry farms or restricted dairies, but does not include the operation of facilities for drought or similar emergency relief or extensive agriculture or aquaculture.

intensive plant agriculture means any of the following carried out for commercial purposes:

- (a) the cultivation of irrigated crops (other than irrigated pasture or fodder crops),

- (b) horticulture,
- (c) turf farming,
- (d) viticulture.

jetty means a horizontal decked walkway providing access from the shore to the waterway and is generally constructed on a piered or piled foundation.

kiosk means retail premises used for the purposes of selling food, light refreshments and other small convenience items such as newspapers, films and the like.

Note. See clause 5.4 for controls relating to the gross floor area.

Land Application Map means the Tumbarumba Local Environmental Plan 2010 Land Application Map.

Land Reservation Acquisition Map means the Tumbarumba Local Environmental Plan 2010 Land Reservation Acquisition Map.

Land Zoning Map means the Tumbarumba Local Environmental Plan 2010 Land Zoning Map.

landscape and garden supplies means a building or place where trees, shrubs, plants, bulbs, seeds and propagating material are offered for sale (whether by retail or wholesale), and may include the sale of landscape supplies (including earth products or other landscape and horticulture products) and the carrying out of horticulture.

landscaped area means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.

light industry means an industry, not being a hazardous or offensive industry or involving use of a hazardous or offensive storage establishment, in which the processes carried on, the transportation involved or the machinery or materials used do not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise.

liquid fuel depot means storage premises that are used for the bulk storage for wholesale distribution of petrol, oil, petroleum or other inflammable liquid and at which no retail trade is conducted.

livestock processing industry means an industry that involves the commercial production of products derived from the slaughter of animals (including poultry) or the processing of skins or wool of animals, derived principally from surrounding districts, and includes such activities as abattoirs, knackeries, tanneries, woollscours and rendering plants.

Lot Size Map means the Tumbarumba Local Environmental Plan 2010 Lot Size Map.

maintenance, in relation to a heritage item or a building, work, archaeological site, tree or place within a heritage conservation area, means ongoing protective care. It does not include the removal or disturbance of existing fabric, alterations, such as carrying out extensions or additions, or the introduction of new materials or technology.

2010 No 317

Tumbarumba Local Environmental Plan 2010

Dictionary

marina means a permanent boat storage facility (whether located wholly on land, wholly on the waterway or partly on land and partly on the waterway) together with any associated facilities, including:

- (a) any facility for the construction, repair, maintenance, storage, sale or hire of boats, and
- (b) any facility for providing fuelling, sewage pump-out or other services for boats, and
- (c) any facility for launching or landing boats, such as slipways or hoists, and
- (d) any associated car parking, commercial, tourist or recreational or club facility that is ancillary to a boat storage facility, and
- (e) any associated single mooring.

market means retail premises comprising an open-air area or an existing building used for the purpose of selling, exposing or offering goods, merchandise or materials for sale by independent stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis.

mean high water mark means the position where the plane of the mean high water level of all ordinary local high tides intersects the foreshore, being 1.44m above the zero of Fort Denison Tide Gauge and 0.515m Australian Height Datum.

medical centre means business premises used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals, and may include the ancillary provision of other health services.

mezzanine means an intermediate floor within a room.

mine means any place (including any excavation) where an operation is carried on for mining of any mineral by any method and any place on which any mining related work is carried out, but does not include a place used only for extractive industry.

mine subsidence district means a mine subsidence district proclaimed under section 15 of the *Mine Subsidence Compensation Act 1961*.

mining means mining carried out under the *Mining Act 1992* or the recovery of minerals under the *Offshore Minerals Act 1999*, and includes:

- (a) the construction, operation and decommissioning of associated works, and
- (b) the rehabilitation of land affected by mining.

mixed use development means a building or place comprising 2 or more different land uses.

mooring means a detached or freestanding apparatus located on or in a waterway and that is capable of securing a vessel.

mortuary means premises that are used, or intended to be used, for the receiving, preparation, embalming and storage of bodies of deceased persons pending their interment or cremation.

moveable dwelling has the same meaning as in the *Local Government Act 1993*.

Note. The term is defined as follows:

moveable dwelling means:

- (a) any tent, or any caravan or other van or other portable device (whether on wheels or not), used for human habitation, or
- (b) a manufactured home, or
- (c) any conveyance, structure or thing of a class or description prescribed by the regulations (under the *Local Government Act 1993*) for the purposes of this definition.

multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land (not being an individual lot in a strata plan or community title scheme) each with access at ground level, but does not include a residential flat building.

native fauna means any animal-life that is indigenous to New South Wales or is known to periodically or occasionally migrate to New South Wales, whether vertebrate (including fish) or invertebrate and in any stage of biological development, but does not include humans.

native flora means any plant-life that is indigenous to New South Wales, whether vascular or non-vascular and in any stage of biological development, and includes fungi and lichens, and marine vegetation within the meaning of Part 7A of the *Fisheries Management Act 1994*.

native vegetation has the same meaning as in the *Native Vegetation Act 2003*.

Note. The term is defined as follows:

Meaning of “native vegetation”

- (1) **Native vegetation** means any of the following types of indigenous vegetation:
 - (a) trees (including any sapling or shrub, or any scrub),
 - (b) understorey plants,
 - (c) groundcover (being any type of herbaceous vegetation),
 - (d) plants occurring in a wetland.
- (2) Vegetation is **indigenous** if it is of a species of vegetation, or if it comprises species of vegetation, that existed in the State before European settlement.
- (3) **Native vegetation** does not include any mangroves, seagrasses or any other type of marine vegetation to which section 205 of the *Fisheries Management Act 1994* applies.

Natural Resources Sensitivity—Biodiversity Map means the Tumbarumba Local Environmental Plan 2010 Natural Resources Sensitivity—Biodiversity Map.

natural water-based aquaculture means aquaculture undertaken in natural waterbodies (including any part of the aquaculture undertaken in tanks, ponds or other facilities such as during hatchery or depuration phases).

Note. Typical natural water-based aquaculture is fin fish culture in cages and oyster, mussel or scallop culture on or in racks, lines or cages.

navigable waterway means any waterway that is from time to time capable of navigation and is open to or used by the public for navigation, but does not include flood waters that have temporarily flowed over the established bank of a watercourse.

neighbourhood shop means retail premises used for the purposes of selling small daily convenience goods such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a post office, bank or dry cleaning, but does not include restricted premises.

Note. See clause 5.4 for controls relating to the retail floor area.

non-potable water means water that does not meet the standards or values for drinking water recommended from time to time by the National Health and Medical Research Council.

NSW Coastal Policy means the publication titled *NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast*, published by the Government.

offensive industry means any development for the purpose of an industry that would, when the development is in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the development from existing or likely future development on other land in the locality), emit a polluting discharge (including, for example, noise) in a manner that would have a significant adverse impact in the locality or on the existing or likely future development on other land in the locality.

offensive storage establishment means any establishment where goods, materials or products are stored and that would, when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the establishment from existing or likely future development on other land in the locality), emit a polluting discharge (including, for example, noise) in a manner that would have a significant adverse impact in the locality or on the existing or likely future development on other land in the locality.

office premises means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

operational land has the same meaning as in the *Local Government Act 1993*.

parking space means a space dedicated for the parking of a motor vehicle, including any manoeuvring space and access to it, but does not include a car park.

passenger transport facility means a building or place used for the assembly or dispersal of passengers by any form of transport, including facilities required for parking, manoeuvring, storage or routine servicing of any vehicle that uses the building or place.

place of Aboriginal heritage significance means an area of land shown on the Heritage Map that is:

- (a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It can (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving

sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or

- (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

place of public worship means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.

pond-based aquaculture means aquaculture undertaken in structures that are constructed by excavating and reshaping earth, which may be earthen or lined, and includes any part of the aquaculture undertaken in tanks, such as during the hatchery or pre-market conditioning phases, but does not include natural water-based aquaculture.

Note. Typical pond-based aquaculture is the pond culture of prawns, yabbies or silver perch.

port facilities means any of the following facilities at or in the vicinity of a designated port within the meaning of section 47 of the *Ports and Maritime Administration Act 1995*:

- (a) facilities for the embarkation or disembarkation of passengers onto or from any vessels, including public ferry wharves,
- (b) facilities for the loading or unloading of freight onto or from vessels and associated receival, land transport and storage facilities,
- (c) wharves for commercial fishing operations,
- (d) refuelling, launching, berthing, mooring, storage or maintenance facilities for any vessel,
- (e) sea walls or training walls,
- (f) administration buildings, communication, security and power supply facilities, roads, rail lines, pipelines, fencing, lighting or car parks.

potable water means water that meets the standards or values for drinking water recommended from time to time by the National Health and Medical Research Council.

private open space means an area external to a building (including an area of land, terrace, balcony or deck) that is used for private outdoor purposes ancillary to the use of the building.

property vegetation plan has the same meaning as in the *Native Vegetation Act 2003*.

Note. The term is defined as follows:

property vegetation plan means a property vegetation plan that has been approved under Part 4 of the *Native Vegetation Act 2003*.

2010 No 317

Tumbarumba Local Environmental Plan 2010

Dictionary

pub means licensed premises under the *Liquor Act 2007* the principal purpose of which is the sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold or entertainment is provided on the premises.

public administration building means a building used as offices or for administrative or other like purposes by the Crown, a statutory body, a council or an organisation established for public purposes, and includes a courthouse or a police station.

public authority has the same meaning as in the Act.

public land has the same meaning as in the *Local Government Act 1993*.

Note. The term is defined as follows:

public land means any land (including a public reserve) vested in or under the control of the council, but does not include:

- (a) a public road, or
- (b) land to which the *Crown Lands Act 1989* applies, or
- (c) a common, or
- (d) land subject to the *Trustees of Schools of Arts Enabling Act 1902*, or
- (e) a regional park under the *National Parks and Wildlife Act 1974*.

public reserve has the same meaning as in the *Local Government Act 1993*.

public utility undertaking means any of the following undertakings carried on or permitted to be carried on by or by authority of any Government Department or under the authority of or in pursuance of any Commonwealth or State Act:

- (a) railway, road transport, water transport, air transport, wharf or river undertakings,
- (b) undertakings for the supply of water, hydraulic power, electricity or gas or the provision of sewerage or drainage services,

and a reference to a person carrying on a public utility undertaking includes a reference to a council, electricity supply authority, Government Department, corporation, firm or authority carrying on the undertaking.

rainwater tank means a tank designed for the storage of rainwater gathered on the land on which the tank is situated.

recreation area means a place used for outdoor recreation that is normally open to the public, and includes:

- (a) a children's playground, or
- (b) an area used for community sporting activities, or
- (c) a public park, reserve or garden or the like,

and any ancillary buildings, but does not include a recreation facility (indoor), recreation facility (major) or recreation facility (outdoor).

recreation facility (indoor) means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

recreation facility (major) means a building or place used for large-scale sporting or recreation activities that are attended by large numbers of people whether regularly or periodically, and includes sports stadiums, showgrounds, racecourses and motor racing tracks.

recreation facility (outdoor) means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).

Reduced Level (RL) means height above the Australian Height Datum, being the datum surface approximating mean sea level that was adopted by the National Mapping Council of Australia in May 1971.

registered club has the same meaning as in the *Registered Clubs Act 1976*, whether or not entertainment is provided at the club.

relic means any deposit, object or other material evidence of human habitation:

- (a) that relates to the settlement of the area of Tumbarumba, not being Aboriginal settlement, and
- (b) that is more than 50 years old, and
- (c) that is a fixture or is wholly or partly within the ground.

research station means a building or place operated by a public authority for the principal purpose of agricultural, environmental, fisheries, forestry, minerals or soil conservation research, and includes any associated facility for education, training, administration or accommodation.

residential accommodation means a building or place used predominantly as a place of residence, but does not include tourist and visitor accommodation.

residential care facility means accommodation for seniors (people aged 55 years or more) or people with a disability that includes:

- (a) meals and cleaning services, and
- (b) personal care or nursing care, or both, and
- (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,

not being a dwelling, hospital or psychiatric facility.

2010 No 317

Tumbarumba Local Environmental Plan 2010

Dictionary

residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

resource recovery facility means a building or place used for the recovery of resources from waste, including works or activities such as separating and sorting, processing or treating the waste, temporary storage, transfer or sale of recovered resources, energy generation from gases and water treatment, but not including re-manufacture or disposal of the material by landfill or incineration.

restaurant means a building or place the principal purpose of which is the provision of food or beverages to people for consumption on the premises, whether or not takeaway meals and beverages or entertainment are also provided.

restricted dairy means a dairy (other than a dairy (pasture-based)) where restriction facilities are present in addition to milking sheds and holding yards, and where cattle have access to grazing for less than 10 hours in any 24 hour period (excluding during periods of drought or similar emergency relief). A restricted dairy may comprise the whole or part of a restriction facility.

restricted premises means business premises or retail premises that, due to their nature, restrict access to patrons or customers over 18 years of age, and includes sex shops and similar premises but does not include hotel or motel accommodation, a pub, home occupation (sex services) or sex services premises.

restriction facilities means facilities where animals are constrained for management purposes, including milking sheds, pads, feed stalls, holding yards and paddocks where the number of livestock exceeds the ability of vegetation to recover from the effects of grazing in a normal growing season, but does not include facilities for drought or similar emergency relief.

retail premises means a building or place used for the purpose of selling items by retail, or for hiring or displaying items for the purpose of selling them by retail or hiring them out, whether the items are goods or materials (or whether also sold by wholesale).

road means a public road or a private road within the meaning of the *Roads Act 1993*, and includes a classified road.

roadside stall means a place or temporary structure used for retail selling of agricultural produce or hand crafted goods (or both) produced from the property on which the stall is situated or from an adjacent property.

Note. See clause 5.4 for controls relating to the gross floor area.

rural industry means an industry that involves the handling, treating, production, processing or packing of animal or plant agricultural products, and includes:

- (a) agricultural produce industry, or
- (b) livestock processing industry, or
- (c) use of composting facilities and works (including to produce mushroom substrate), or
- (d) use of sawmill or log processing works, or

- (e) use of stock and sale yards, or
- (f) the regular servicing or repairing of plant or equipment used for the purposes of a rural enterprise,

undertaken for commercial purposes.

rural supplies means a building or place used for the display, sale (whether by retail or wholesale) or hire of stockfeeds, grains, seed, fertilizers, veterinary supplies and other goods or materials used in farming and primary industry production.

rural worker's dwelling means a dwelling, ancillary to a dwelling house on the same landholding, used as the principal place of residence by persons employed for the purpose of agriculture or a rural industry on that land.

sawmill or log processing works means a building or place used for handling, cutting, chipping, pulping or otherwise processing logs, baulks, branches or stumps, principally derived from surrounding districts, into timber or other products derived from wood.

school means a government school or non-government school within the meaning of the *Education Act 1990*.

secondary dwelling means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the **principal dwelling**), and
- (b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling.

Note. See clause 5.4 for controls relating to the total floor area.

self-storage units means storage premises that consist of individual enclosed compartments for storing goods or materials (other than hazardous or offensive goods or materials).

semi-detached dwelling means a dwelling that is on its own lot of land (not being an individual lot in a strata plan or community title scheme) and is attached to only one other dwelling.

seniors housing means residential accommodation that consists of:

- (a) a residential care facility, or
- (b) a hostel, or
- (c) a group of self-contained dwellings, or
- (d) a combination of these,

and that is, or is intended to be, used permanently for:

- (e) seniors or people who have a disability, or
- (f) people who live in the same household with seniors or people who have a disability, or

2010 No 317

Tumbarumba Local Environmental Plan 2010

Dictionary

(g) staff employed to assist in the administration of the residential accommodation or in the provision of services to persons living in the accommodation, but does not include a hospital.

service station means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following:

- (a) the ancillary sale by retail of spare parts and accessories for motor vehicles,
- (b) the cleaning of motor vehicles,
- (c) installation of accessories,
- (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration),
- (e) the ancillary retail selling or hiring of general merchandise or services or both.

serviced apartment means a building or part of a building providing self-contained tourist and visitor accommodation that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents.

sewage reticulation system means a building or place used for the collection and transfer of sewage to a sewage treatment plant or water recycling facility for treatment, or transfer of the treated waste for use or disposal, including associated:

- (a) pipelines and tunnels, and
- (b) pumping stations, and
- (c) dosing facilities, and
- (d) odour control works, and
- (e) sewage overflow structures, and
- (f) vent stacks.

sewage treatment plant means a building or place used for the treatment and disposal of sewage, whether or not the facility supplies recycled water for use as an alternative water supply.

sewerage system means a biosolids treatment facility, sewage reticulation system, sewage treatment plant, water recycling facility, or any combination of these.

sex services means sexual acts or sexual services in exchange for payment.

sex services premises means a brothel, but does not include home occupation (sex services).

shop means retail premises that sell groceries, personal care products, clothing, music, homewares, stationery, electrical goods or other items of general merchandise, and may include a neighbourhood shop, but does not include food and drink premises or restricted premises.

shop top housing means one or more dwellings located above (or otherwise attached to) ground floor retail premises or business premises.

signage means any sign, notice, device, representation or advertisement that advertises or promotes any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes:

- (a) building identification signs, and
- (b) business identification signs, and
- (c) advertisements,

but does not include traffic signs or traffic control facilities.

site area means the area of any land on which development is or is to be carried out. The land may include the whole or part of one lot, or more than one lot if they are contiguous to each other, but does not include the area of any land on which development is not permitted to be carried out under this Plan.

Note. The effect of this definition is varied by clause 4.5 for the purpose of the determination of permitted floor space area for proposed development.

site coverage means the proportion of a site area covered by buildings. However, the following are not included for the purpose of calculating site coverage:

- (a) any basement,
- (b) any part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site boundary,
- (c) any eaves,
- (d) unenclosed balconies, decks, pergolas and the like.

spa pool has the same meaning as in the *Swimming Pools Act 1992*.

Note. The term is defined to include any excavation, structure or vessel in the nature of a spa pool, flotation tank, tub or the like.

stock and sale yard means a building or place used on a commercial basis for the purpose of offering livestock or poultry for sale and may be used for the short-term storage and watering of stock.

storage premises means a building or place used for the storage of goods, materials, plant or machinery for commercial purposes and where the storage is not ancillary to any business premises or retail premises on the same parcel of land.

storey means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include:

- (a) a space that contains only a lift shaft, stairway or meter room, or
- (b) a mezzanine, or
- (c) an attic.

swimming pool has the same meaning as in the *Swimming Pools Act 1992*.

Note. The term is defined as follows:

swimming pool means an excavation, structure or vessel:

- (a) that is capable of being filled with water to a depth of 300 millimetres or more, and

2010 No 317

Tumbarumba Local Environmental Plan 2010

Dictionary

- (b) that is solely or principally used, or that is designed, manufactured or adapted to be solely or principally used, for the purpose of swimming, wading, paddling or any other human aquatic activity,

and includes a spa pool, but does not include a spa bath, anything that is situated within a bathroom or anything declared by the regulations made under the *Swimming Pools Act 1992* not to be a swimming pool for the purposes of that Act.

take away food and drink premises means food and drink premises that are predominantly used for the preparation and sale of food or drink (or both) for immediate consumption away from the premises.

tank-based aquaculture means aquaculture utilising structures that are constructed from materials such as fibreglass, plastics, concrete, glass or metals, are usually situated either wholly or partly above ground, and may be contained within a purpose built farm or industrial style sheds or plastic covered hothouse to assist in controlling environmental factors.

telecommunications facility means:

- (a) any part of the infrastructure of a telecommunications network, or
(b) any line, equipment, apparatus, tower, mast, antenna, tunnel, duct, hole, pit, pole or other structure or thing used, or to be used, in or in connection with a telecommunications network.

telecommunications network means a system, or series of systems, that carries, or is capable of carrying, communications by means of guided or unguided electromagnetic energy, or both.

temporary structure has the same meaning as in the Act.

Note. The term is defined as follows:

temporary structure includes a booth, tent or other temporary enclosure (whether or not part of the booth, tent or enclosure is permanent), and also includes a mobile structure.

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

timber and building supplies means a building or place used for the display, sale (whether by retail or wholesale) or hire of goods or materials that are used in the construction and maintenance of buildings.

tourist and visitor accommodation means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes hotel or motel accommodation, serviced apartments, bed and breakfast accommodation and backpackers' accommodation.

transport depot means a building or place used for the parking or servicing of motor powered or motor drawn vehicles used in connection with a passenger transport undertaking, business, industry or shop.

truck depot means a building or place used for the servicing and parking of trucks, earthmoving machinery and the like.

turf farming means the commercial cultivation of turf for sale and the removal of turf for that purpose.

vehicle body repair workshop means a building or place used for the repair of vehicles or agricultural machinery, involving body building, panel building, panel beating, spray painting or chassis restoration.

vehicle repair station means a building or place used for the purpose of carrying out repairs or the selling of, and fitting of accessories to, vehicles or agricultural machinery, but does not include a vehicle body repair workshop.

vehicle sales or hire premises means a building or place used for the display, sale (whether by retail or wholesale) or hire of motor vehicles, caravans, boats, trailers, agricultural machinery and the like, whether or not accessories are sold or displayed there.

veterinary hospital means a building or place used for diagnosing or surgically or medically treating animals, whether or not animals are kept on the premises for the purpose of treatment.

viticulture means the cultivation of grapes for commercial purposes for use in the production of fresh or dried fruit or wine.

warehouse or distribution centre means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made.

waste disposal facility means a building or place used for the disposal of waste by landfill, incineration or other means, including such works or activities as recycling, resource recovery and other resource management activities, energy generation from gases, leachate management, odour control and the winning of extractive material to generate a void for disposal of waste or to cover waste after its disposal.

waste management facility means a facility used for the storage, treatment, purifying or disposal of waste, whether or not it is also used for the sorting, processing, recycling, recovering, use or reuse of material from that waste, and whether or not any such operations are carried out on a commercial basis. It may include but is not limited to:

- (a) an extractive industry ancillary to, required for or associated with the preparation or remediation of the site for such storage, treatment, purifying or disposal, and
- (b) eco-generating works ancillary to or associated with such storage, treatment, purifying or disposal.

waste or resource management facility means a waste or resource transfer station, a resource recovery facility or a waste disposal facility.

waste or resource transfer station means a building or place used for the collection and transfer of waste material or resources, including the receipt, sorting, compacting, temporary storage and distribution of waste or resources and the loading or unloading of waste or resources onto or from road or rail transport.

water recreation structure means a structure used primarily for recreational purposes that has a direct structural connection between the shore and the waterway, and may include a pier, wharf, jetty or boat launching ramp.

2010 No 317

Tumbarumba Local Environmental Plan 2010

Dictionary

water recycling facility means a building or place used for the treatment of sewage effluent, stormwater or waste water for use as an alternative supply to mains water, groundwater or river water (including, in particular, sewer mining works), whether the facility stands alone or is associated with other development, and includes associated:

- (a) retention structures, and
- (b) treatment works, and
- (c) irrigation schemes.

water reticulation system means a building or place used for the transport of water, including pipes, tunnels, canals, pumping stations, related electricity infrastructure, dosing facilities and water supply reservoirs.

water storage facility means a dam, weir or reservoir for the collection and storage of water, and includes associated monitoring or gauging equipment.

water supply system means a water reticulation system, water storage facility, water treatment facility, or any combination of these.

water treatment facility means a building or place used for the treatment of water (such as a desalination plant or a recycled or reclaimed water plant) whether the water produced is potable or not, and includes residuals treatment, storage and disposal facilities, but does not include a water recycling facility.

waterbody means a waterbody (artificial) or waterbody (natural).

waterbody (artificial) or ***artificial waterbody*** means an artificial body of water, including any constructed waterway, canal, inlet, bay, channel, dam, pond, lake or artificial wetland, but does not include a dry detention basin or other stormwater management construction that is only intended to hold water intermittently.

waterbody (natural) or ***natural waterbody*** means a natural body of water, whether perennial or intermittent, fresh, brackish or saline, the course of which may have been artificially modified or diverted onto a new course, and includes a river, creek, stream, lake, lagoon, natural wetland, estuary, bay, inlet or tidal waters (including the sea).

watercourse means any river, creek, stream or chain of ponds, whether artificially modified or not, in which water usually flows, either continuously or intermittently, in a defined bed or channel, but does not include a waterbody (artificial).

waterway means the whole or any part of a watercourse, wetland, waterbody (artificial) or waterbody (natural).

wetland means:

- (a) natural wetland, including marshes, mangroves, backwaters, billabongs, swamps, sedgelands, wet meadows or wet heathlands that form a shallow waterbody (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with fresh, brackish or salt water, and where the inundation determines the type and productivity of the soils and the plant and animal communities, or

- (b) artificial wetland, including marshes, swamps, wet meadows, sedgelands or wet heathlands that form a shallow waterbody (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with water, and are constructed and vegetated with wetland plant communities.

wholesale supplies means a building or place used for the display, sale or hire of goods or materials by wholesale only to businesses that have an Australian Business Number registered under the *A New Tax System (Australian Business Number) Act 1999* of the Commonwealth.