

Tumbarumba Local Environmental Plan 1988

[1988-13]



New South Wales

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Tumbarumba Local Environmental Plan 1988



New South Wales

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Tumbarumba Local Environmental Plan 1988



New South Wales

Part 1 Preliminary

1 Name of plan

This plan may be cited as *Tumbarumba Local Environmental Plan 1988*.

2 Aims, objectives etc

(1) This plan generally aims to:

- (a) provide for orderly and economic development, and optimum use of land and resources, within the Shire,
- (b) provide for the improvement of the urban and rural environments of the Shire,
- (c) provide for the development of the Shire in physical, social and economic terms,
- (d) conserve important natural and man-made features within the Shire, and
- (e) endeavour to preserve the quality of life consistently with the desire of the community.

(2) This plan specifically aims to:

- (a) provide guidance to the community as to the manner in which the effects of growth and change are proposed to be managed and to the private sector as to future growth and development opportunities,
- (b) locate new urban development so as to maximise the use of existing infrastructure and minimise development costs,
- (c) protect, effectively develop and utilise the resources of the Shire, particularly forestry, agriculture and tourism,
- (d) manage prime agricultural land having regard to its physical characteristics and demand for various agricultural uses,
- (e) provide an adequate supply of zoned land in appropriate locations to accommodate demand for small rural allotments,

- (f) provide for a wide range of housing stock in appropriate locations,
- (g) provide adequate land for industrial, commercial and tourist purposes in order to enable the economic base of the Shire to be broadened and to create employment opportunities,
- (h) provide for the development of effective transportation systems,
- (i) protect, where necessary, areas of natural beauty, environmental sensitivity or historical or prehistorical significance,
- (j) identify appropriate roles for rural villages within the Shire,
- (k) protect and enhance the tourist potential of the Shire,
- (l) identify and ensure the protection of natural economic resources such as mineral deposits where appropriate, and
- (m) control and prevent soil erosion.

3 Land to which plan applies

This plan applies to all land within the Shire of Tumbarumba as shown edged heavy black on the map.

4 Relationship to other environmental planning instruments

This plan repeals *Interim Development Order No 1—Shire of Tumbarumba* and *Tumbarumba Local Environmental Plan No 2*.

5 Interpretation

(1) In this plan:

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

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

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

cluster development means the erection, on a single allotment of land, of more than 1 dwelling-house, but does not include dual occupancy or the erection of a dwelling-house on an allotment where that dwelling-house is intended to replace entirely an existing dwelling-house on the allotment.

council means the council of the Shire of Tumbarumba.

demolition, in relation to a building or work, means the damaging, defacing, destruction, pulling down or removal of that building or work, in whole or in part.

forestry includes arboriculture, silviculture, forest production, the cutting, harvesting, dressing and preparation (otherwise than in a sawmill) of wood and other forest products and the establishment of roads required for the removal of wood and forest products and for forest protection, but does not include the planting of trees for wind breaks or other purposes incidental to farming, or the clearing of regrowth from previously cleared land, or minor and incidental felling of trees by landowners for the purposes of farming, firewood, poles, on-site housing, yarding and the like.

fruit culture means the cultivation of trees, plants or vines as a commercial enterprise using specialised farming techniques to produce marketable fruit.

holiday cabin means a building not containing more than 2 dwellings used for the provision of holiday accommodation only, being one of a group of similar buildings erected on an allotment of land or allotments of land in the same ownership.

intensive livestock keeping establishment means a building or place in which or on which cattle, sheep, goats, poultry or other livestock are held for the purposes of nurturing by a feeding method other than natural grazing and, without limiting the generality of the foregoing, includes:

- (a) feed lots,
- (b) piggeries,
- (c) poultry farms, and
- (d) fish farming,

but does not include an animal boarding, breeding or training establishment or land used for the keeping of livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of the land.

items of the environmental heritage means those buildings, works, relics or places of historic, scientific, cultural, social, architectural, archaeological, natural or aesthetic significance to the Shire which are:

- (a) described in Schedule 3, or
- (b) identified in a development control plan.

lodge means a building used for tourist or holiday accommodation with communal living, dining and kitchen areas.

recreation area means:

- (a) a children's playground,

- (b) an area used for sporting activities or sporting facilities,
- (c) an area used by the council to provide recreational facilities for the physical, cultural or intellectual welfare of the community, or
- (d) an area used by a body of persons associated for the purposes of the physical, cultural or intellectual welfare of the community to provide recreational facilities for those purposes,

but does not include a racecourse or a showground.

relic means any deposit, object or material evidence relating to the settlement (including aboriginal habitation) prior to 1 January 1900, of the area of the council.

renovation, in relation to a building or work, means:

- (a) the making of structural changes to the inside or outside of the building or work, or
- (b) the making of non-structural changes to the fabric or appearance of the outside of the building or work, including changes that involve the repair or the painting, plastering or other decoration of the outside of the building work.

residential building means a building used or intended for use as a residential flat building, a boarding-house or a hostel but does not include a motel or a lodge.

road transport depot means a building or place used for the servicing, repair or parking of vehicles used for the purpose of a road transport undertaking but does not include a road transport terminal.

storey means any floor containing any habitable room or rooms.

the map means the series of maps marked “*Tumbarumba Local Environmental Plan 1988*”, as amended by the maps marked as follows:

Tumbarumba Local Environmental Plan 1988 (Amendment No 1)

Tumbarumba Local Environmental Plan 1988 (Amendment No 2)

Tumbarumba Local Environmental Plan 1988 (Amendment No 3)

Tumbarumba Local Environmental Plan 1988 (Amendment No 4)

Tumbarumba Local Environmental Plan 1988 (Amendment No 5)

Tumbarumba Local Environmental Plan 1988 (Amendment No 6)

tree clearing means the ring-barking, cutting down, topping, lopping, removing, injuring or destruction of trees:

- (a) covering an area of 1 hectare of land or more, or
- (b) which would reduce by 30% or more the tree canopy that existed on any land when *Tumbarumba Local Environmental Plan 1988 (Amendment No 3)* commenced.

vegetable culture means the cultivation of vegetables as a commercial enterprise using specialised farming techniques generally referred to as market gardening as distinct from backyard vegetable growing.

(2) In this plan:

- (a) a reference to a building or place used for a purpose includes a reference to a building or place intended to be used for the purpose,
- (b) a reference to a map is a reference to a map deposited in the office of the council, and
- (c) a reference to land within a zone specified in the Table to clause 9 is a reference to land shown on the map in the manner indicated in clause 8 as the means of identifying land of the zone so specified.

6 Model Provisions

- (1) The *Environmental Planning and Assessment Model Provisions 1980* are adopted for the purpose of this plan with the exception of clause 15 and the definitions of **forestry** and **map** in clause 4 (1).
- (2) For the purposes of subclause (1), the reference in the definition of **arterial road** in clause 4 (1) of the Model Provisions referred to in that subclause to a continuous red line shall be read as a reference to a broken black line.

7 Consent authority

The council is the consent authority for the purposes of this plan.

Part 2 General restrictions on development

8 Zoning indicated on the map

For the purposes of this plan, land to which this plan applies shall be within a zone specified hereunder if the land is shown on the map in the manner specified hereunder in relation to that zone.

Zone No 1 (a) (Rural “A” (Agriculture) Zone)—edged black and numbered “1 (a)”.

Zone No 1 (c) (Rural “C” (Rural Residential) Zone)—edged black and numbered “1 (c)”.

Zone No 1 (f) (Rural “F” (Forestry) Zone)—edged black and numbered “1 (f)”.

Zone No 1 (t) (Rural “T” (Rural Tourist Accommodation) Zone)—edged black and numbered “1 (t)”.

Zone No 2 (a) (Residential “A” (Living Area) Zone)—edged black and numbered “2 (a)”.

Zone No 2 (d) (Residential “D” (Release Area) Zone)—edged black and numbered “2 (d)”.

Zone No 2 (f) (Residential “F” (Tourist Accommodation) Zone)—edged black and numbered “2 (f)”.

Zone No 2 (v) (Residential “V” (Village) Zone)—edged black and numbered “2 (v)”.

Zone No 3 (a) (Business “A” (General) Zone)—edged black and numbered “3 (a)”.

Zone No 3 (b) (Business “B” (Special) Zone)—edged black and numbered “3 (b)”.

Zone No 4 (b) (Industry “B” (Light industry) Zone)—edged black and numbered “4 (b)”.

Zone No 4 (c) (Industry “C” (Special Industry) Zone)—edged black and numbered “4 (c)”.

Zone No 5 (a) (Special Uses “A” (General) Zone)—edged black and numbered “5 (a)”.

Zone No 5 (b) (Special Uses “B” (Railway) Zone)—edged black and numbered “5 (b)”.

Zone No 6 (a) (Open Space “A” (Public Recreation) Zone)—edged black and numbered “6 (a)”.

Zone No 6 (b) (Open Space “B” (Proposed Public Recreation Zone)—edged black and numbered “6 (b)”.

Zone No 6 (c) (Open Space “C” (Private Recreation) Zone)—edged black and numbered “6 (c)”.

Zone No 7 (d) (Environmental Protection “D” (Scenic) Zone)—edged black and numbered “7 (d)”.

Zone No 8 (National Parks and Nature Reserves) Zone) edged black and numbered “8”.

9 Zone objectives and development control table

- (1) The objectives of a zone are set out in the Table to this clause under the heading “Objectives of Zone” appearing in the matter relating to the zone.
- (2) Except as otherwise provided by this plan, in relation to land within a zone specified in the Table to this clause, the purposes (if any) for which:
 - (a) development may be carried out without development consent,
 - (b) development may be carried out only with development consent, and

(c) development is prohibited,

are specified under the headings “Without Development Consent”, “Only with Development Consent”, and “Prohibited”, respectively, appearing in the matter relating to the zone.

- (3) Except as otherwise provided by this plan, the council shall not grant consent to the carrying out of development on land to which this plan applies unless the council is of the opinion that the carrying out of the development is consistent with the objectives of the zone within which the development is proposed to be carried out.

Table

Zone No 1 (a) (Rural “A” (Agriculture) Zone)

1 Objectives of Zone

The objectives are:

- (a) to enable development for purposes that are:
 - (i) appropriate in a rural location, and
 - (ii) sympathetic with the environmental characteristics of the land and the costs of providing public services and amenities,
- (b) to promote efficient sustainable agricultural utilisation of agricultural land, particularly prime crop and pasture land,
- (c) to facilitate farm adjustments,
- (d) to conserve prime crop and pasture land by ensuring that:
 - (i) it is not unnecessarily converted to non-agricultural purposes, and
 - (ii) any allotment created for an intensive agricultural pursuit is potentially capable of sustaining a range of such purposes or other agricultural purposes suitable to the locality,
- (e) to protect or conserve:
 - (i) soil stability, by controlling development in accordance with soil capability,
 - (ii) forests of commercial value for timber production,
 - (iii) valuable deposits of minerals, coal, petroleum and extractive materials, by controlling the location of development to enable the

efficient extraction of those deposits,

(iv) trees and other vegetation in environmentally sensitive areas where the conservation of the vegetation is likely to reduce land degradation, and

(v) water resources.

2 Without Development Consent

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

3 Only with Development Consent

Any purpose (other than a purpose for which development may be carried out without development consent or a purpose for which development is prohibited).

4 Prohibited

Commercial premises; hotels; motor showrooms; professional consulting rooms; residential buildings; shops.

Zone No 1 (c) (Rural "C" (Rural Residential) Zone)

1 Objectives of Zone

To identify land for:

- (a) rural residential living opportunities on small allotments of land which are not productive for food and fibre production,
- (b) part-time or hobby farm pursuits on land which has already been fragmented into units or holdings that are not capable of sustaining a form of agriculture common to the area, or
- (c) a range of industrial, storage or intensive livestock keeping purposes which are compatible with the environmental capabilities of the land and which are unlikely to adversely affect land in the vicinity.

2 Without Development Consent

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

3 Only with Development Consent

Any purpose (other than a purpose for which development may be carried out without development consent or a purpose for which development is prohibited).

4 Prohibited

Boarding houses; commercial premises; generating works; hotels; industries other than home industries; institutions; junk yards; liquid fuel depots; motor showrooms; professional consulting rooms; residential flat buildings; roadside stalls; service stations; shops; transport terminals; warehouses.

Zone No 1 (f) (Rural “F” (Forestry) Zone)

1 Objectives of Zone

The objective is to make provision for all State Forests within which development for any forestry purposes referred to in clause 9 of Schedule 1 to the *Environmental Planning and Assessment Model Provisions 1980* do not require the consent of the council.

2 Without Development Consent

Agriculture; forestry.

3 Only with Development Consent

Any purpose ordinarily incidental or subsidiary to forestry; drainage; extractive industries; mines; public utility installations; recreation establishments.

4 Prohibited

Any purpose (other than a purpose for which development may be carried out without development consent or only with development consent).

Zone No 1 (t) (Rural “T” (Tourist Accommodation) Zone)

1 Objective of Zone

The objectives are:

- (a) to provide for the needs of tourism by enabling the development of tourist facilities, tourist accommodation and the like, the structure and location of which will be subject to the provision of a development control

plan prepared by or on behalf of the council,

- (b) to enable development that does not create unreasonable or uneconomic demands for the provision or extension of public amenities or services,
- (c) to ensure that development maintains the rural character of the locality and is in harmony with the environment, and
- (d) to encourage multiple occupancy and dual occupancy development in appropriate locations.

2 Without Development Consent

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

3 Only with Development Consent

Advertising structures; boarding houses; child care centres; clubs; dwelling-houses; holiday cabins; lodges; motels; open space; recreation establishments; places of assembly; public buildings; public utility undertakings; service stations; shops used in conjunction with camping grounds or caravan parks; tourist facilities; tree clearing; utility installations.

4 Prohibited

Any purpose (other than a purpose for which development may be carried out without development consent or only with development consent).

Zone No 2 (a) (Residential “A” (Living Area) Zone)

1 Objectives of Zone

The objectives are:

- (a) to make provision for certain suitable lands to be used for the purposes of housing and associated facilities,
- (b) to encourage a range of housing types in appropriate locations which have a minimal impact on the amenity of residential environments,
- (c) to enable development for purposes other than residential only if it is compatible with the character of the living area, and
- (d) to control by means of a development control plan the location, form

and density of development.

2 Without Development Consent

Dwelling-houses.

3 Only with Development Consent

Any purpose (other than a purpose for which development may be carried out without development consent or a purpose for which development is prohibited).

4 Prohibited

Abattoirs; advertising structures; aerodromes; bulk stores; caravan parks; car repair stations; cemeteries and crematoria; commercial premises; extractive industries; funeral parlours; generating works; hotels; industries other than home industries; institutions; junk yards; liquid fuel depots; mines; motor showrooms; places of assembly; public buildings; retail plant nurseries; roadside stalls; road transport depots; sawmills; shops; service stations; stock and sale yards; stock homes; timber yards; transport terminals; warehouses.

Zone No 2 (d) (Residential “D” (Release Area) Zone)

1 Objectives of Zone

The objective is to make provision for the flexible development of new residential areas in which the structure and organisation of development will be subject to the provisions of a development control plan prepared by or on behalf of the council.

2 Without Development Consent

Nil.

3 Only with Development Consent

Any purpose (other than a purpose for which development is prohibited).

4 Prohibited

Abattoirs; aerodromes; automotive uses; bulk stores; cemeteries and crematoria; clubs; extractive industries; funeral parlours; generating works; hotels; industries other than home industries; institutions; junk yards; liquid

fuel depots; mines; motor showrooms; places of assembly; roadside stalls; road transport depots; road transport terminals; sawmills; service stations; stock and sale yards; stock homes; timber yards; warehouses.

Zone No 2 (f) (Residential “F” (Tourist Accommodation) Zone)

1 Objectives of Zone

The objective is to make provision for the development of tourist accommodation and facilities in appropriate urban areas.

2 Without Development Consent

Nil.

3 Only with Development Consent

Advertising structures; boarding houses; child care centres; clubs; dwelling-houses; holiday cabins; lodges; motels; open space; places of assembly; public buildings; public utility undertakings; recreation establishments; recreation facilities; service stations; shops used in conjunction with camping grounds or caravan parks; tourist facilities; tree clearing; utility installations.

4 Prohibited

Any purpose (other than a purpose for which development may be carried out only with development consent).

Zone No 2 (v) (Residential “V” (Village) Zone)

1 Objectives of Zone

The objectives are:

- (a) to retain the existing provisions which regulate development in the villages of the Shire,
- (b) to make provision for certain suitable lands to be used for urban purposes,
- (c) to encourage a range of housing types in appropriate locations,
- (d) to enable development for retail, commercial and service purposes for the local and nearby rural community in appropriate locations within the zone where the scale and type of development is compatible with living areas, and

(e) to control by means of a development control plan the location, form and density of development.

2 Without Development Consent

Nil.

3 Only with Development Consent

Any purpose (other than a purpose for which development is prohibited).

4 Prohibited

Institutions; extractive industries; junk yards; mines; offensive or hazardous industries.

Zone No 3 (a) (Business “A” (General) Zone)

1 Objectives of Zone

The objectives are:

- (a) to encourage the development and expansion of business activities which will contribute to economic growth and employment opportunities within the Shire,
- (b) to facilitate the establishment of retail, commercial and professional services to meet the needs of the community and which are compatible with the surrounding village environment,
- (c) to set aside certain land for the provision of services required by the travelling public and the tourist industry and for the development of facilities for refreshment, accommodation, recreation and amusement, and
- (d) to permit non-commercial development within the zone where such development is compatible with the commercial character of the locality.

2 Without Development Consent

Nil.

3 Only with Development Consent

Any purpose (other than a purpose for which development is prohibited).

4 Prohibited

Abattoirs; aerodromes; agriculture; boarding houses; caravan parks; cemeteries and crematoria; dwelling-houses or residential flats other than those physically attached to or used in conjunction with commercial premises or shops; extractive industries; forestry; generating works; heliports; hospitals; industries other than home industries; junk yards; liquid fuel depots; mines; motor showrooms; retail plant nurseries; roadside stalls; road transport depots; road transport terminals; sawmills; stock and sale yards; stock homes; timber yards.

Zone No 3 (b) (Business “B” (Special) Zone)

1 Objectives of Zone

The objective is to provide for forms of business activities normally located on the fringe of the central business area.

2 Without Development Consent

Nil.

3 Only with Development Consent

Any purpose specified in Schedule 1 or 2 the floor space of which does not exceed 1 000 square metres; advertising structures; clubs; commercial premises; drainage; drive-in liquor shops; drive-in take-away food shops; drive-in take-away shops; dwelling-houses or residential flat buildings attached to and used in conjunction with a purpose referred to in Schedule 1 or 2; hotels; motels; motor showrooms; open space; places of assembly; public buildings; public utility undertakings; refreshment rooms; retail plant nurseries; roads; tree clearing; utility installations; warehouses.

4 Prohibited

Any purpose (other than a purpose for which development may be carried out only with development consent).

Zone No 4 (b) (Industry “B” (Light industry) Zone)

1 Objectives of Zone

The objectives are:

(a) to set aside certain land for the purposes of light industry within a

convenient distance of Tumbarumba and with good access to major arterial roads, and

- (b) to enable certain other forms of development compatible with or ancillary to the industrial use of the land.

2 Without Development Consent

Nil.

3 Only with Development Consent

Any purpose (other than a purpose for which development is prohibited).

4 Prohibited

Abattoirs; boarding houses; caravan parks; commercial premises; dwelling-houses other than that used in conjunction with and situated on the same land as industry; educational establishments; forestry; institutions; hospitals; industries other than light industries; mines; motels; places of assembly; places of public worship; professional consulting rooms; public buildings; refreshment rooms; residential flat buildings; roadside stalls; shops other than smallgoods and sandwich shops; stock and sale yards; stock homes; units for the aged.

Zone No 4 (c) (Industry “C” (Special Industry) Zone)

1 Objectives of Zone

The objectives are:

- (a) to set aside certain land for the purpose of industry requiring special consideration because of its location and employment base, and
- (b) to provide special buffer areas around such industry to enable it to function economically.

2 Without Development Consent

Nil.

3 Only with Development Consent

Timber mills and associated processing plants and works.

4 Prohibited

Any purpose (other than a purpose for which development may be carried out only with development consent).

Zone No 5 (a) (Special Uses “A” (General) Zone)

1 Objectives of Zone

The objective is to make provision for particular specialised uses such as abattoirs and sewerage works and purposes ordinarily incidental thereto.

2 Without Development Consent

Nil.

3 Only with Development Consent

The particular use indicated by red lettering on the map; any purpose ordinarily incidental or subsidiary to such a purpose; drainage; tree clearing; utility installations.

4 Prohibited

Any purpose (other than a purpose for which development may be carried out only with development consent).

Zone No 5 (b) (Special Uses “B” (Railway) Zone)

1 Objectives of Zone

The objectives are:

- (a) to set aside certain land for railway purposes and purposes incidental to railway purposes, and
- (b) to allow maximum flexibility in the use of land that is not currently needed for railway purposes.

2 Without Development Consent

Nil.

3 Only with Development Consent

Any purpose.

4 Prohibited

Any purpose (other than a purpose for which development may be carried out only with development consent).

Zone No 6 (a) (Open Space “A” (Public Recreation) Zone)

1 Objectives of Zone

The objectives are:

- (a) to protect and preserve land in general community recreational usage, and
- (b) to ensure that there is adequate provision of open space to meet the needs of the community for public recreation.

2 Without Development Consent

Works for the purpose of landscaping, gardening and bushfire hazard reduction.

3 Only with Development Consent

Amenity buildings; buildings for the purposes of landscaping, gardening or bushfire hazard reduction, childcare centres; public utility undertakings; racecourses; recreation areas; showgrounds; utility installations.

4 Prohibited

Any purpose (other than a purpose for which development may be carried out without development consent or only with development consent).

Zone No 6 (b) (Open Space “B” (Proposed Public Recreation) Zone)

1 Objectives of Zone

This zone is intended to identify land, not in public ownership, which is proposed to be used principally for the purposes of public recreation and which will be acquired by the council, either by dedication or purchase.

2 Without Development Consent

Works for the purposes of landscaping, gardening or bushfire hazard reduction.

3 Only with Development Consent

Amenity buildings; buildings for the purposes of landscaping, gardening or bushfire hazard reduction; childcare centres; public utility undertakings; racecourses; recreation areas; showgrounds; tree clearing; utility installations.

4 Prohibited

Any purpose (other than a purpose for which development may be carried out without development consent or only with development consent).

Zone No 6 (c) (Open Space “C” (Private Recreation) Zone)

1 Objectives of Zone

The objective is to identify private land which is set aside for recreational purposes by private groups, organisations or clubs.

2 Without Development Consent

Work for the purposes of landscaping, gardening or bushfire hazard reduction.

3 Only with Development Consent

Buildings for the purpose of landscaping, gardening or bushfire hazard reduction; clubs; drainage; public utility undertakings; racecourse; recreation areas; recreation facilities; refreshment rooms; showgrounds; tourist facilities; tree clearing; utility installations.

4 Prohibited

Any purpose (other than a purpose for which development may be carried out without development consent or only with development consent).

Zone No 7 (d) (Environmental Protection “D” (Scenic) Zone)

1 Objectives of Zone

The objectives are:

- (a) to identify and protect the scenic qualities of the environment which enhance the visual amenity of the Shire,
- (b) to identify and protect areas of vegetation importance including wildlife

corridors,

- (c) to prohibit development within the zone that is likely to have a detrimental effect on the scenic quality or visual amenity of vegetation cover of the Shire, and
- (d) to enable development for certain purposes where such development would not have a significant detrimental effect on the scenic quality and visual amenity of the Shire.

2 Without Development Consent

Nil.

3 Only with Development Consent

Agriculture; bushfire hazard reduction; camping and caravan parks; dams; drainage; dwelling-houses; forestry; home occupations; public utility undertakings; refreshment rooms; roads; tree clearing; utility installations.

4 Prohibited

Any purpose (other than a purpose for which development may be carried out only with development consent).

Zone No 8 (National Parks and Nature Reserves Zone)

1 Objectives of zone

The objectives are:

- (a) to set aside certain lands for any purpose under the *National Parks and Wildlife Service Act 1974*, and purposes incidental thereto,
- (b) to further protect the recreation reserves currently under council control, from unnecessary environmental damage, including timber cutting.

2 Without Development Consent

Development carried out by or on behalf of the National Parks and Wildlife Service under the [National Parks and Wildlife Act 1974](#).

3 Only with Development Consent

Nil.

4 Prohibited

Any purpose (other than a purpose for which development may be carried out without development consent).

Part 3 Special provisions

Division 1 Subdivision

10 Consent required for subdivision

- (1) Land within any zone shall not be subdivided except:
 - (a) for a purpose permitted under this plan in respect of the land, and
 - (b) with the consent of the council.
- (2) Notwithstanding the provisions of this plan, land may be subdivided with the consent of the council if the subdivision is for the purpose of:
 - (a) creating an allotment or allotments intended for open space or other public purposes,
 - (b) making minor adjustments to common property boundaries,
 - (c) enlarging the area of any existing allotment without reducing the area of any other existing allotment below the minimum for that zone,
 - (d) rectifying any encroachment upon an existing allotment, or
 - (e) amalgamating allotments.
- (3) A person who makes a development application to subdivide land within Zone No 1 (a), 1 (c), 1 (t) or 7 (d) shall, in the application:
 - (a) state, in relation to each allotment to be created by the subdivision, the purpose or purposes for which that allotment is intended to be used,
 - (b) show the approximate location of any buildings erected on the land at the date of the application, and
 - (c) show the approximate location of any buildings or works proposed to be erected on allotments created by the subdivision.

11 Subdivision of land within Zone No 1 (a) or 7 (d)

- (1) This clause applies to land within Zone No 1 (a) or 7 (d).
- (2) In this clause:

existing holding means:

- (a) except as provided by paragraph (b), the area of a lot, portion or parcel of land as it was on 30 May 1975, or
- (b) where, on 30 May 1975, a person owned 2 or more adjoining or adjacent lots, portions or parcels of land, the aggregation of those lots, portions or parcels as they were on that date.

concessional lot means:

- (a) an allotment created by subdivision in accordance with the provisions of clause 12 (2) or 12 (3) of *Interim Development Order No 1—Shire of Tumbarumba*, of land (as defined by clause 12 (6) of that order), or
 - (b) an allotment referred to in subclause (6).
- (3) The council may grant consent to an application to subdivide land to which this clause applies if each separate allotment of land to be created by the subdivision has an area of not less than 40 hectares.
- (4) An allotment or allotments of land having an area of less than 40 hectares but not less than 10 hectares may be created by a subdivision of land to which this clause applies if the council is satisfied that the subdivision:
- (a) is to enable the allotment to be used for fruit culture, vegetable culture or other intensive agricultural pursuits,
 - (b) will not diminish the potential of any other land for agricultural purposes,
 - (c) will contribute to the agricultural output of the agricultural district within which the land is located, and
 - (d) will enable proper management of the land in respect of soil conservation.
- (5) An allotment or allotments of land having an area of not less than 4 hectares may be created by a subdivision of land to which this clause applies if the council is satisfied that the subdivision:
- (a) is to enable the allotment or allotments to be used for forestry,
 - (b) will not diminish the potential of the land for agricultural purposes, and
 - (c) will enable proper management of the land in respect of soil conservation.
- (6) Subject to subclause (7), the council may grant consent to an application to subdivide land to which this clause applies (not being land which forms the whole or part of an existing holding of less than 20 hectares in area) to create an allotment of less than 40 hectares but not less than 4 000 square metres if the council is satisfied that:

- (a) where more than one allotment is excised from an existing holding, no allotment will have access to a main road except by means of an access common to all such allotments,
 - (b) the subdivision will not diminish the potential of the holding for agricultural purposes, and
 - (c) adequate provision is made for the on-site disposal of effluent.
- (7) The total number of concessional lots that may be created (whether by one or more subdivisions made at any time on or after 30 May 1975) pursuant to subclause (6):
- (a) where the area of the existing holding is less than 30 hectares but not less than 20 hectares—is 2, or
 - (b) where the area of the existing holding is not less than 30 hectares—is 3.
- (8) The council may grant consent to an application to subdivide land to which this clause applies so as to create an allotment of less than 40 hectares if the council is satisfied that the allotment is intended to be used for a purpose (other than agriculture, forestry or dwelling-houses) for which it may be used without or only with the consent of the council.
- (9) The council shall not consent to an application to subdivide land to which this clause applies so as to create an allotment other than an allotment referred to in subclause (3), (4), (5), (6) or (8).

12 Subdivision of land within Zone No 1 (c) or 1 (t)

- (1) This clause applies to land within Zone No 1 (c) or 1 (t).
- (2) The council may grant consent to an application to subdivide land to which this clause applies if:
- (a) the area of each allotment created by the subdivision is not less than 4 000 square metres,
 - (b) drainage of the land is provided to the satisfaction of the council,
 - (c) in the opinion of the council, adequate provision has been made for the disposal of effluent on each allotment of land created by the subdivision, and
 - (d) consideration has been given to land capability (including soil resources and soil stability), natural constraints and hazards of the land to be subdivided in relation to the density of allotments to be created.

Division 2 Dwelling-houses

13 Rural dwellings

- (1) This clause applies to land within Zone No 1 (a) or 7 (d).
- (2) A dwelling-house may, with the consent of the council, be erected on land to which this clause applies and if:
 - (a) the land is an allotment having an area of not less than 40 hectares,
 - (b) the land is an allotment created in accordance with clause 11 (4) or 11 (8) and the dwelling-house is used in conjunction with the purpose for which the allotment was created,
 - (c) the land is an allotment created in accordance with clause 11 (6),
 - (d) the land is an allotment created by subdivision in accordance with an approval given by council since 30 May 1975 but prior to the appointed day, or
 - (e) the land comprises the whole of an existing holding within the meaning of clause 11 and is an allotment on which no other dwelling-house is erected.
- (3) Notwithstanding the provisions of clause 9, the council shall not consent to the erection of a dwelling-house, residential building, lodge, holiday cabin, motel, caravan park or any other type of holiday, tourist or weekend residential accommodation on an allotment of land created by subdivision in accordance with clause 11 (5).

14 Rural workers' dwellings

- (1) This clause applies to land within Zone No 1 (a), 1 (t) or 7 (d) which is used for the purpose of agriculture.
- (2) An additional dwelling-house may, with the consent of the council, be erected on land to which this clause applies if:
 - (a) the council is satisfied that the dwelling-house will be actually occupied by a person employed or engaged by the owner of the land in the use of the land for the purpose of agriculture, and
 - (b) the additional dwelling-house is located on the same parcel of land as the dwelling-house occupied by the owner.
- (3) Nothing in this clause permits any subdivision not otherwise permitted by this plan.

15 Rural residential dwellings—Zone No 1 (c) or 1 (t)

- (1) A person shall not erect a dwelling-house on an allotment of land within Zone No 1 (c) or 1 (t) without the consent of council.

- (2) The council shall not grant consent referred to in subclause (1) unless the allotment:
 - (a) is an allotment created in accordance with clause 12, or
 - (b) is an allotment in existence as a separate allotment at the appointed day.

16 Multiple occupancy of rural allotments

- (1) This clause applies to land within Zone No 1 (a) or 1 (b).
- (2) Development for residential purposes comprising permanent dwelling or living accommodation may be carried out on land to which this clause applies with the consent of the council and subject to compliance with this clause.
- (3) The land upon which any such development is carried out:
 - (a) shall have an area of not less than 40 hectares,
 - (b) shall be and remain unsubdivided under the *Local Government Act 1919*, the *Strata Titles Act 1973* or any other Act so that it comprises a single parcel, and
 - (c) shall not have any motel, hotel, caravan park or any other type of holiday, tourist or weekend residential accommodation developed on it.
- (4) Any consent granted under this clause in respect of land in more than one parcel shall be granted on the condition that the land be consolidated into a single parcel prior to the development being carried out.
- (5) The density of residential accommodation under this clause shall not exceed that reasonably required to house one person for each hectare of the land.
- (6) The height of any building erected under this clause shall not exceed 8 metres.
- (7) Where development is carried out on land pursuant to this clause, the subdivision of the land under the *Local Government Act 1919*, the *Strata Titles Act 1973* or any other Act is prohibited.
- (8) Pursuant to section 30 (4) of the Act, the provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of development to which this clause applies in the same manner as those provisions apply to and in respect of designated development.

17 Dual occupancy

- (1) If, in pursuance of this plan, development for the purposes of a dwelling-house may be carried out on an allotment of land, a person may, with the consent of the council:
 - (a) alter or add to a dwelling-house erected on that allotment so as to create 2 dwellings,

- (b) erect 2 attached dwellings on that allotment, or
 - (c) erect 2 dwelling-houses on that allotment,
- but only if, in the result, there are not more than 2 dwellings on the allotment.
- (2) The council shall not grant consent to an application to enable development to be carried out as referred to in subclause (1) unless it is satisfied that:
 - (a) arrangements satisfactory to it have been made for the provision of a water supply to each dwelling which will result from carrying out the development and for the disposal of sewage and stormwater drainage from that dwelling, and
 - (b) there is adequate access to the allotment.
 - (3) The provisions of this plan, relating to residential flat buildings do not apply to development permitted under this clause.
 - (4) The separate occupation of the several lots illustrated by a proposed strata plan relating to land to which this plan applies and in respect of which a development application has been made to enable development to be carried out as referred to in subclause (1) is prohibited.

Division 3 Buildings generally

18 Residential flat buildings

- (1) This clause applies to land within Zone No 2 (a), 2 (d), 2 (f) or 2 (v).
- (2) If development is carried out on land to which this clause applies for the purpose of residential flat building, the ratio of the number of bedrooms in that building to the area of the development site shall not exceed 9 bedrooms per 1 000 square metres.
- (3) Subject to subclause (4), the council shall not consent to the erection of a residential flat building which contains more than 2 storeys above natural ground level.
- (4) If the topography of the site is such that in the opinion of the council a higher residential flat building could be satisfactorily erected on the site having regard to the visual amenity and its relationship with surrounding sites, the council may consent to the erection of a residential flat building which contains 3 storeys above natural ground level.

Division 4 Business and commercial uses

19 Refreshment rooms

Notwithstanding the provisions of clause 9 the council shall not consent to a development for a refreshment room on land within Zone No 2 (a) unless the site upon which the

refreshment room is to be erected has a frontage to Main Road 282 or Trunk Road 85.

20 Tourist accommodation—Zone No 1 (a) or 1 (b)

- (1) The council may only consent to development for the provision of lodges and holiday cabins on any land within Zone No 1 (a) or 1 (b) if:
 - (a) the land has an area of not less than 40 hectares,
 - (b) the maximum number of persons to be accommodated within that development does not exceed 0.5 persons per hectare,
 - (c) the development adjoins or is adjacent to an existing dwelling-house occupied by the owner of the land or a person employed by the owner for the purpose of agriculture,
 - (d) in the opinion of the Council, the development will not prevent the continuance of the use of the land concerned for the purpose of agriculture as the dominant use of the land, and
 - (e) the land is consolidated into one allotment.
- (2) For the purposes of this clause, **land** means any areas of adjoining or adjacent land held in the same ownership on the appointed day.

Division 5 Industrial uses

21 Density

- (1) A person shall not carry out development on an allotment of land within Zone No 4 (a) unless not more than 60 per cent of the area of that land is occupied by buildings.
- (2) For the purposes of subclause (1), the area of an access corridor shall not be taken into account in computing the area or width of the allotment.

Division 6 General

22 Suspension of certain laws

- (1) For the purpose of enabling development to be carried out in accordance with clause 16, section 37 of the *Strata Titles Act 1973*, to the extent necessary to serve that purpose, shall not apply to any such development.
- (2) For the purpose of enabling development to be carried out on land within any zone (other than Zone No 2 (a) or 2 (d)) in accordance with this plan, any covenant, agreement or instrument imposing restrictions:
 - (a) as to the erection of buildings, or

(b) as to the use of land or buildings for certain purposes,

to the extent necessary to serve that purpose, shall not apply to any such development.

(3) Before the making of this plan:

(a) the Governor approved of this clause,

(b) the Minister administering section 37 of the *Strata Titles Act 1973* concurred in writing to the recommendation of the Governor's approval.

(4) Nothing in this clause affects the rights or interests of any statutory body under a registered instrument.

23 Acquisition

(1) The owner of any land within Zone No 6 (b) may by notice in writing require the council to acquire that land.

(2) On receipt of a notice referred to in subclause (1), the council shall acquire the land.

(3) Notwithstanding clause 9, any land within Zone No 6 (b) may be developed for any purpose with the consent of the council until that land is acquired by the council where the council is satisfied that the carrying out of that development will not adversely affect the usefulness of the land for the purposes for which it has been zoned.

24 Items of environmental heritage

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

(a) demolish, renovate or extend that building or work,

(b) damage or despoil that relic or place or any part of that relic or place,

(c) excavate any land for the purpose of exposing or removing that relic,

(d) erect a building on the land on which that building, work or relic is situated or on the land on which that building, work or relic is situated or on the land which comprises that place, or

(e) subdivide the land on which that building, work or relic is situated or the land which comprises that place,

except with the consent of the council.

25 Development incentive relating to heritage items

Nothing in this plan prevents the council from granting consent to the use, for any purpose, of a building that is an item of the environmental heritage or of the land on which that building is erected, where the council is satisfied that:

- (a) the use would have little or no adverse effect on the amenity of the neighbourhood, and
- (b) conservation of the building depends on the council granting consent in pursuance of this subclause.

26 Heritage Council to be given prior notice of demolition consent

If a person makes a development application to demolish a building or work that is an item of the environmental heritage, the council shall not grant consent to that application until the council has notified the Secretary of the Heritage Council of its intention to do so.

27 Advertising of heritage applications

- (1) The provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of the demolition of a building or work that is an item of the environmental heritage in the same way as those provisions apply to and in respect of designated development.
- (2) Subclause (1) does not apply to the partial demolition of a building or work where the partial demolition is of a minor nature and does not adversely affect the significance of the building or work as part of the environmental heritage of the Shire.

28 Development within the Open Space Zone

The council shall not consent to an application to carry out development on land which is within Zone No 6 (a) or 6 (b) unless it has made an assessment of:

- (a) the need for the proposed development of that land,
- (b) the impact of the proposed development on the existing or likely future use of the land, and
- (c) the need to retain the land for its existing or likely future use.

29 Community use of school facilities or sites

- (1) Where land to which this plan applies is used for the purposes of an educational establishment, the site and facilities of the establishment may, with the consent of the council, be used for the purposes of meeting rooms, public halls, public libraries, entertainment, sport or recreation or for any other community purpose, whether or not any such use is a commercial use of the land.
- (2) Nothing in this clause requires development consent to be granted for the carrying

out of development on any land if that development could, but for this clause, be carried out on that land without development consent.

30 Development on ridgelines

- (1) This clause applies to land within Zone No 1 (a), 1 (c) or 7 (d).
- (2) Except as provided by subclause (3), a person shall not erect a building on any land within 50 metres of any ridgeline on any land to which this clause applies.
- (3) A person may, with the consent of the council, erect a building within 50 metres of a ridgeline on any land to which this clause applies if:
 - (a) in its opinion, the erection of that building will not detract from the visual amenity of the area, and
 - (b) the proposed location of the building, in its opinion, comprises the only part of the land which has reasonable access to a public road.
- (4) For the purposes of this clause, **land** means any area of adjoining or adjacent land held in the same ownership at the date on which the application referred to in subclause (2) is lodged.

31 Environmental Protection Areas

- (1) This clause applies to land shown hatched on the map.
- (2) The council shall not consent to the carrying out of development on land to which this clause applies unless it has had regard to the impact of the development on:
 - (a) the visual and scenic quality of the area,
 - (b) the risk of soil erosion and water pollution, and
 - (c) important vegetation systems and natural wildlife habitats, including wetlands.
- (3) Land to which this clause applies shall not be cleared of perennial woody plants for any purpose (other than as may be necessary for the erection of a fence normally incidental to the agricultural use of the land) except with the consent of the council.
- (4) The council shall not grant consent to the clearing of land referred to in subclause (1) unless it is satisfied that:
 - (a) the clearing is proposed to be carried out in a manner which minimises:
 - (i) visual and scenic impact,
 - (ii) the risk of soil erosion and water pollution,
 - (iii) the destruction of important vegetation systems and natural wildlife habitats,

and

- (b) clearing is necessary for the reasonable economic use of the land or the provision of utility services, or
- (c) clearing is necessary to reduce the risk of bushfires.

31A Protection of the environment generally

- (1) This clause applies to all land to which this plan applies.
- (2) In determining whether to grant consent to the carrying out of development of land to which this clause applies, the Council must take into consideration the following:
 - (a) the Department of Conservation and Land Management's guidelines for activities on protected land within the meaning of the *Soil Conservation Act 1938*,
 - (b) in respect of development considered by the Council to be of major significance, the advice of the Department of Conservation of Land Management (if any),
 - (c) the likely impact of the development on land degradation and water quality,
 - (d) the impact of the siting of any access roadway or structure on the visual amenity of the locality,
 - (e) the likely impact of the development on the Murray and Murrumbidgee catchment areas,
 - (f) the location, height and appearance of any proposed buildings,
 - (g) the effect of the development on the habitat of fish and other aquatic fauna,
 - (h) the effect of the development on wildlife habitat,
 - (i) the preservation of wildlife corridors.

32 Land subject to bushfire hazards

The council shall not grant consent to subdivide land or to erect a building on land which in the view of council is subject to bushfire hazards by reason of the vegetation on the land or on any adjacent land unless, in the opinion of the council:

- (a) adequate provision is made for access for fire fighting vehicles, and
- (b) adequate safeguards are affected in the form of fire breaks, reserves and fire radiation zones.

33 Development along arterial roads

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

which has frontage to an arterial road, unless:

- (a) access to that land is provided by a road other than the arterial road, wherever practicable, and
 - (b) in the opinion of the council, the safety and efficiency of the arterial road will not be adversely affected by:
 - (i) the design of the access to the proposed development,
 - (ii) the emission of smoke or dust from the proposed development, and
 - (iii) the nature, volume or frequency of vehicles using the arterial road to gain access to the proposed development.
- (2) The council shall not consent to the development of land within Zone No 1 (a) or 1 (c) for any purpose listed in Schedule 4 if the development of the land for the purpose will have direct access to:
- (a) an arterial road, or
 - (b) a road connecting to an arterial road, where the access to that road is within 90 metres (measured along the road alignment of the connecting road) of the alignment of the arterial road.

34 Minor variation of zoning boundaries

- (1) This clause applies to land which is within 20 metres of a boundary between any 2 zones.
- (2) Subject to subclause (3), development may, with the consent of the council, be carried out on land to which this clause applies for any purpose for which development may be carried out in the adjoining zone on the other side of the boundary.
- (3) The council shall not consent to the carrying out of development referred to in subclause (2), unless, in the opinion of the council, the carrying out of the development is desirable due to planning, design, ownership, servicing or similar requirements relating to the optimum development of land to which this plan applies.

35 Development on buffer land in the vicinity of Zone No 4 (c)

- (1) This clause applies to land shown cross-hatched on the map marked "*Tumbarumba Local Environmental Plan 1988 (Amendment No 6)*", being land within 750 metres of the boundaries of Lots A and B, DP 338630 and Lots 532 and 702, DP 755892, Parish of Tumbarumba.
- (2) A person must not carry out development on land to which this clause applies for the purpose of a dwelling-house or for any other residential purpose.

- (3) The Council must not grant consent to the carrying out of development on land to which this clause applies unless the Council has taken into consideration the impact of noise and other emissions from any industry carried out on Lots A and B, DP 338630 and Lots 532 and 702, DP 755892 and has made an assessment of whether the proposed development would adversely affect the industry.

36 What is exempt and complying development?

- (1) Development of minimal environmental impact listed as exempt development in *Development Control Plan No 12* as adopted by the Council on 9 June 2000 is **exempt development**, despite any other provision of this plan.
- (2) Development listed as complying development in *Development Control Plan No 12* as adopted by the Council on 9 June 2000 is **complying development** if:
 - (a) it is local development of a kind that can be carried out with consent on land on which it is proposed, and
 - (b) it is not an existing use, as defined in section 106 of the Act.
- (3) Development is exempt or complying development only if it complies with the development standards and other requirements applied to the development by *Development Control Plan No 12* as adopted by the Council on 9 June 2000.
- (4) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in *Development Control Plan No 12* adopted by the Council on 9 June 2000, as in force when the certificate is issued.

Schedule 1

(Clause 9)

A Shops offering for sale by retail the following types of goods:

- Agricultural and horticultural supplies, implements or machinery
- Boats and marine accessories
- Building materials
- Builders' hardware or equipment
- Caravans, trailers and accessories
- Garden supplies and accessories
- Plumbers' hardware
- Paint and painters' supplies

Second-hand goods

- B Confectionery shop and milk bar
 - Refreshment room
 - Smallgoods and sandwich shop
- C Service station
 - Tyre sales establishment
 - Motor parts and accessories sales establishment
 - Motor showrooms
 - Motor repair establishments (mechanical and electrical)

Schedule 2

(Clause 9)

Boot and shoe repairing
Bread, cake and pastry manufacture
Builder's yard
Cabinet making
Cycle and motor cycle repairs
Dental mechanic's workshop
Dressmaking
Drycleaning and dyeing processing establishment
Electronic apparatus repair
Electrical home appliance repair
Furniture storage and repairing premises
Home improvement centre
Instrument repair workshop
Joinery workshop
Laundry
Locksmith
Office machine and equipment repair
Photographic and film developing
Plumber's workshop
Printer's workshop
Radio and television mechanic's workshop
Servicing and repair of domestic appliances
Sheltered workshop
Signwriter's workshop
Tailoring
Tool sharpening and grinding workshop
Toy making
Undertaker's establishment
Upholstering
Veterinary surgeon's establishment
Any service industry of like intensity

Schedule 3

(Clause 5 (1))

Historic Buildings

Elm Cottage, Rosewood
Tooma Hotel
Tumbarumba Court House
Tumbarumba Police Station
Tumbarumba Post Office
Tumbarumba Public School
Wolters Cottage

Cemeteries

Willigobung Cemetery
Tumbarumba Pioneer Cemetery
Pierce Family Cemetery at Greg Greg
McMicking Graves at Mannus
Rosewood Cemetery
Welaregang Cemetery

Memorials

Union Jack Memorial
Maginnity Gap Memorial

Schedule 4

(Clause 33 (2))

Bulk stores
Caravan parks
Car repair stations
Clubs
Educational establishments
Industries (other than home or rural industries)
Institutions
Junk yards
Liquid fuel depots
Mines
Motels
Places of public assembly
Places of public worship
Recreation establishments
Recreation facilities
Refreshment rooms
Retail plant nurseries
Roadside stalls (other than on land described in Schedule 5)
Saw mills
Service stations
Stock and sales yards

Transport terminals

Warehouses

Schedule 5

(Schedule 4)

Land adjacent to Trunk Road 85 situated between the southern boundary of Bago State Forest and the intersection of Trunk Road 85 and Courabyra Road.