

# Tumut Local Environmental Plan 1990

[1990-761]



New South Wales

## Status Information

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### Provisions in force

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### Authorisation

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New South Wales

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# Tumut Local Environmental Plan 1990



New South Wales

## Part 1 Preliminary

### 1 Name of plan

This plan may be cited as *Tumut Local Environmental Plan 1990*.

### 2 Aims, objectives etc

- (1) The principal aims of this plan are to provide planning controls for the Shire of Tumut and to update and consolidate into one instrument the various planning instruments which applied to this area when this plan commenced.
- (2) The general aims of this plan are:
  - (a) to encourage the proper management, development and conservation of natural and man-made resources within the Shire of Tumut by protecting, enhancing or conserving:
    - (i) prime crop and pasture land,
    - (ii) timber, minerals, soil, water and other natural resources,
    - (iii) areas of high scenic, recreational or nature conservation value, and
    - (iv) places and buildings of archaeological or heritage significance, including Aboriginal relics and places, and
  - (b) to help facilitate growth and development of the Shire of Tumut in a manner which is consistent with the aims specified in paragraph (a) and which:
    - (i) minimises the cost to the community of fragmented and isolated development of rural land,
    - (ii) facilitates the efficient and effective delivery of amenities and services,
    - (iii) facilitates a range of residential and employment opportunities in accordance with demand,
    - (iv) facilitates farm adjustment, and

(v) ensures that the efficiency of arterial roads is not adversely affected by development on adjacent land.

(3) The particular aims of this plan are:

- (a) to divide land into the zones referred to in clause 8 and to achieve in respect of land within each of those zones the objectives specified for that land in the Table to clause 9,
- (b) to protect the agricultural production potential of rural land, particularly where land is designated as being of prime crop and pasture potential,
- (c) to provide for the continued needs of tourism,
- (d) to encourage the provision of employment opportunities for local residents,
- (e) to provide a variety of residential environments to cater for differing lifestyles and needs,
- (f) to promote and enhance the viability of existing commercial and industrial centres within the Shire of Tumut,
- (g) to recognise the financial constraints likely to be encountered by the Council in the provision, maintenance and augmentation of additional and existing services required for an expanding and relocating population, and
- (h) to ensure that the Council gives due regard to the effect of natural hazards upon development.

### **3 Land to which plan applies**

- (1) This plan applies to all land within the Shire of Tumut as shown on the map, with the boundaries as indicated on the map.
- (2) However, this plan does not apply to the following land:

Land to which *State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007* applies

### **4 Relationship to other environmental planning instruments**

This plan repeals:

- (a) *Interim Development Order No 3—Shire of Tumut*, and
- (b) such other local environmental plans and deemed environmental planning instruments as, immediately before the appointed day, applied to the land to which this plan applies, but to the extent only to which they so applied to that land.

## 5 Definitions

(1) In this plan:

**alter**, in relation to a heritage item or to a building or work within a heritage conservation area, means:

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

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

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

**arterial road** means an existing road indicated on the map by a heavy unbroken black line and includes all State highways and main roads within the Shire of Tumut.

**bed and breakfast establishment** means a dwelling-house used for the ancillary purpose of providing overnight accommodation for not more than 6 travellers at any one time.

**brothel** has the same meaning as in the Act.

**Note—**

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

**caravan park** means land used as a site for movable dwellings, tents and caravans or other vehicles used for temporary or permanent accommodation and may, in addition to one or more of the foregoing, include cabins.

**cluster housing** means a group of dwelling-houses which share communal open space held in common by owners of the dwelling-houses.

**Council** means the Council of the Shire of Tumut.

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

**dual occupancy** means two dwellings (whether attached or detached) on a single allotment of land.

**existing holding** means the area of a parcel of land, whether comprising one or more adjoining or adjacent lots or portions, existing in one ownership at 11 June 1976.

**floor space ratio**, in relation to a building, means the ratio of the gross floor area of the building to the site area of the allotment on which the building is or is proposed to be erected.

**forestry** includes arboriculture, silviculture, forest protection, the cutting, 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.

**heritage conservation area** means an area identified on the map as a heritage conservation area.

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

- (a) identified on the map by the letter “H”, or
- (b) described in Schedule 1.

**heritage significance** means historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance.

**holiday cabin** means a building containing a room or suite of rooms used, or intended to be used, only for the overnight accommodation of travellers or for longer term tourist accommodation.

**home occupation** means an occupation which is carried on in a dwelling-house, dwelling, dual occupancy or residential flat building, or within the curtilage of a dwelling-house, dual occupancy or residential flat building, by the permanent residents of the dwelling-house, dwelling, dual occupancy or building and which does not involve:

- (a) employment on the premises of persons other than those residents,
- (b) interference with the amenity of the neighbourhood by any reason,
- (c) the display of goods, or
- (d) the exhibition of any notice, advertisement or sign other than a notice,



advertisement or sign to indicate the name and occupation of those residents.

**industrial retail outlet** means a shop which is used for retail activities in conjunction with a light industry or a warehouse and which:

- (a) is situated on the land on which the light industry is carried on or the warehouse is located,
- (b) has a gross floor area devoted to retail activities which does not exceed 25 per cent of the gross floor area devoted to the light industry or warehouse or does not exceed 100 square metres, whichever is less, and
- (c) in which are sold only such goods as have been assembled, manufactured or warehoused on, or are ancillary to, the operation of the land on which the shop is situated.

**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 farms,

but does not include an animal boarding or training establishment or land used for the keeping of livestock or poultry intended for personal consumption or enjoyment by the owner or occupier of the land nor drought feeding of sheep, cattle, horses or goats during a period of drought.

**large dwelling** means a dwelling containing 3 or more bedrooms.

**maintenance**, in relation to a heritage item, means the continuous protective care of the fabric of the heritage item and its setting.

**medium dwelling** means a dwelling containing only 2 bedrooms.

**motor showroom** means a building or place used for the display or sale of motor vehicles, motor cycles, caravans, boats, tractors, trailers or agricultural equipment, whether or not accessories are sold there.

**plant nursery** means a building or place used for the growing, and the wholesale and retail selling of plants, whether or not ancillary products are sold there.

**prime crop and pasture land** means land indicated as Class 1, Class 2 or Class 3, or

Special Use, on a map prepared on behalf of the Director-General of the Department of Agriculture and Fisheries deposited in an office of that Department and in the office of the Council, but does not include land which the Director-General of the Department of Agriculture and Fisheries has notified the Council in writing is not prime crop and pasture land for the purposes of this plan.

**recreation area** means:

- (a) a children's playground,
- (b) an area used for sporting activities or sporting facilities,
- (c) an area used to provide facilities for recreational activities which promote the physical, cultural or intellectual welfare of persons within the community, being facilities provided by:
  - (i) a public authority, or
  - (ii) a body of persons associated for the purposes of the physical, cultural, or intellectual welfare of persons within the community, or
- (d) a picnic or barbeque area,

but does not include a racecourse or a showground.

**relic** means any deposit, object or material evidence (terrestrial or underwater) relating to the use or settlement of the area of the Shire of Tumut and which is 50 or more years old.

**roadside stall** means a building or place not exceeding 20 square metres in floor area where only primary products produced on the property on which the building or place is situated are exposed or offered for sale or sold by retail and where parking connected with the purpose is on the property.

**rural home industry** means an industry carried on in a building (other than a dwelling-house) in a rural area where:

- (a) the building has a gross floor area not exceeding 100 square metres and is erected within the curtilage of a dwelling-house occupied by the person carrying on the industry or on adjoining land owned by that person, and
- (b) the industry does not:
  - (i) interfere with the amenity of the locality for any reason,
  - (ii) involve exposure to view from any adjacent premises or from any public place of any unsightly matter, or
  - (iii) require the provision of any essential service main of a greater capacity than

that available in the locality.

**small dwelling** means a dwelling containing only 1 bedroom.

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

**the Act** means the [Environmental Planning and Assessment Act 1979](#).

**the map** means the series of maps marked “Tumut Local Environmental Plan 1990”, as amended by the maps (or if any sheets of maps are specified, by the specified sheets of the maps) marked as follows:

**Editorial note—**

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

*Tumut Local Environmental Plan 1990 (Amendment No 1)*

*Tumut Local Environmental Plan 1990 (Amendment No 3)*

*Tumut Local Environmental Plan 1990 (Amendment No 5)*

*Tumut Local Environmental Plan 1990 (Amendment No 8)*

*Tumut Local Environmental Plan 1990 (Amendment No 9)*

*Tumut Local Environmental Plan 1990 (Amendment No 15)*

*Tumut Local Environmental Plan 1990 (Amendment No 16)*

*Tumut Local Environmental Plan 1990 (Amendment No 18)*

*Tumut Local Environmental Plan 1990 (Amendment No 20)*

*Tumut Local Environmental Plan 1990 (Amendment No 21)*

*Tumut Local Environmental Plan 1990 (Amendment No 22)*

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

*Tumut Local Environmental Plan 1990 (Amendment No 32)*

(2) In this plan:

- (a) a reference to a map is a reference to a map deposited in the office of the Council,
- (b) 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, and

(c) 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.

(3) Notes in this plan do not form part of this plan.

## 6 Adoption of Model Provisions

(1) The *Environmental Planning and Assessment Model Provisions 1980*, except for:

(a) the definitions of **arterial road**, **forestry**, **general store**, **home occupation**, **map**, **motor showroom**, **retail plant nursery** and **roadside stall** in clause 4 (1), and

(b) clauses 17, 29, 33 and 34,

are adopted for the purposes of this plan.

(2) The definition of **commercial premises** in clause 4 (1) of the *Environmental Planning and Assessment Model Provisions 1980* is adopted as if there were inserted after the word “clause” wherever occurring in the definition the words “or clause 5 (1) of *Tumut Local Environmental Plan 1990*”.

## 7 Consent authority

The Council shall be the consent authority for the purposes of this plan.

## Part 2 General restrictions on development of land

### 8 Zones indicated on the map

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

Zone No 1 (a) (Rural Zone)—coloured light brown and lettered “1 (a)”.

Zone No 1 (b) (Rural (Special Agriculture) Zone)—coloured light brown with heavy black edging and lettered “1 (b)”.

Zone No 1 (c) (Rural (Small Holdings) Zone)—coloured light brown with heavy black edging and lettered “1 (c)”.

Zone No 1 (c1) (Rural (Rural Residential) Zone)—coloured light brown with heavy black edging and lettered “1 (c1)”.

Zone No 1 (d) (Rural (Future Urban) Zone)—coloured light brown with heavy black edging and lettered “1 (d)”.

Zone No 1 (f) (Rural (State Forest) Zone)—coloured light brown with heavy black edging and lettered “1 (f)”.

Zone No 2 (a) (Residential (Low Density) Zone)—coloured light scarlet and lettered 2 (a).

Zone No 2 (b) (Residential (Medium Density) Zone)—coloured light scarlet with heavy black edging and lettered “2 (b)”.

Zone No 2 (v) (Residential (Village or Township) Zone)—coloured light scarlet with heavy black edging and lettered “2 (v)”.

Zone No 3 (a) (General Business Zone)—coloured light blue and lettered 3 (a).

Zone No 3 (b) (Neighbourhood Business Zone)—coloured medium blue and lettered 3 (b).

Zone No 4 (a) (General Industrial Zone)—coloured purple and lettered 4 (a).

Zone No 4 (b) (Light Industrial Zone)—coloured purple with heavy black edging.

Zone No 5 (a) (Special Uses Zone)—coloured yellow and lettered 5 (a).

Zone No 6 (a) (Open Space Recreation Zone)—coloured dark green and lettered 6 (a).

Zone No 8 (National Park, Nature Reserve and Flora and Fauna Reserve Zone)—uncoloured and with dark green edging and lettered 8.

Zone No 9 (a) (Proposed Arterial Road Zone)—broken red band between broken black lines or broken red band between a firm black line and broken black line and lettered 9 (a).

Zone No 9 (b) (Proposed Local Road Zone)—coloured grey between broken black lines or grey between a firm black line and broken black line and lettered 9 (b).

## **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 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 Zone)**

**1 Objectives of zone**

The objectives of this zone are:

- (a) to retain suitable land for agricultural purposes,
- (b) to regulate the subdivision of rural land, and its development for purposes other than agriculture, to ensure that actual and potentially productive land is not withdrawn from sustainable, efficient and effective agricultural production, particularly in those areas designated as prime crop and pasture land,
- (c) to ensure conservation of soil and its stability,
- (d) to ensure conservation of water resources for use in the public interest,
- (e) to facilitate farm adjustment,
- (f) to protect trees and other vegetation in environmentally sensitive areas for scenic amenity, natural wildlife habitat or control of land degradation,
- (g) to ensure identified extractive resources and mineral deposits are not rendered sterile by incompatible land uses,
- (h) to protect places and buildings of archaeological or heritage significance,
- (i) to enable development for the purposes of tourism and recreation in suitable locations,
- (j) to ensure development is carried out in a manner that minimises risks from natural hazards, particularly bush fires and flooding,
- (k) to regulate and restrict fragmented and isolated development of rural land to minimise the cost to the community of providing, extending and maintaining public amenities and services,
- (l) to discourage ribbon development and development of an inappropriate traffic generating nature along main and arterial roads,

(m) to encourage aggregation of existing fragmented agricultural land, particularly prime crop and pasture land, to encourage its continued use for efficient agricultural purposes, and

(n) to protect and enhance fisheries habitat.

## **2 Without development consent**

Agriculture (other than intensive livestock keeping establishments, animal boarding or training establishments and plant nurseries); home occupations.

## **3 Only with development consent**

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

## **4 Prohibited**

Advertising structures (other than those permitted by clause 30); boarding-houses; brothels; car repair stations; cluster housing; commercial premises; motor showrooms; recreational facilities (other than those ancillary and subsidiary to a tourist facility or recreation establishment); residential flat buildings; service stations; shops (other than those ancillary and subsidiary to a tourist facility or recreation establishment).

## **Zone No 1 (b) (Rural (Special Agriculture) Zone)**

### **1 Objectives of zone**

The objectives of this zone are:

(a) to retain suitable land for intensive agricultural purposes,

(b) to regulate the subdivision of rural land, and its development for purposes other than agriculture, to ensure that actual and potentially productive land is not withdrawn from sustainable, efficient and effective agricultural production, particularly in those areas designated as prime crop and pasture land,

(c) to ensure conservation of soil and its stability,

(d) to ensure protection of water resources for use in the public interest,

(e) to facilitate farm adjustment,

(f) to protect trees and other vegetation in environmentally sensitive areas for scenic amenity, natural wildlife protection or control of land

degradation,

- (g) to ensure identified extractive resources and mineral deposits are not rendered sterile by incompatible land uses,
- (h) to protect places and buildings of archaeological and heritage significance,
- (i) to enable development for the purposes of tourism and recreation in suitable locations,
- (j) to ensure development is carried out in a manner that minimises risks from natural hazards, particularly bush fires and flooding,
- (k) to regulate and restrict fragmented and isolated development of rural land to minimise the cost to the community of providing, extending and maintaining public amenities and services,
- (l) to discourage ribbon development and development of an inappropriate traffic generating nature along main and arterial roads,
- (m) to encourage aggregation of existing fragmented agricultural land, particularly prime crop and pasture land, to encourage its continued use for efficient agricultural purposes, and
- (n) to protect and enhance fisheries habitat.

## **2 Development without consent**

Agriculture (other than intensive livestock keeping establishments, animal boarding or training establishments and plant nurseries); home occupations.

## **3 Only with development consent**

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

## **4 Prohibited**

Advertising structures (other than those permitted by clause 30); boarding-houses; brothels; car repair stations; clubs; cluster housing; commercial premises; hotels; industries (other than rural industries and rural home industries); junk yards; liquid fuel depots; motels; motor showrooms; recreation facilities (other than those ancillary and subsidiary to a tourist facility or recreation establishment); residential flat buildings; road transport depots or terminals; service stations; shops (other than those ancillary and



subsidiary to a tourist facility or recreation establishment); transport terminals.

## **Zone No 1 (c) (Rural (Small Holdings) Zone)**

### **1 Objectives of zone**

The objectives of this zone are:

- (a) to accommodate demands for hobby farms and rural retreats in areas generally not being of prime crop and pasture potential,
- (b) to ensure conservation of soil and its stability,
- (c) to ensure protection of water resources for use in the public interest,
- (d) to protect trees and other vegetation in environmentally sensitive areas for scenic amenity, natural wildlife habitat or control of land degradation,
- (e) to ensure development is carried out in a manner that minimises risks from natural hazards, particularly bush fires and flooding,
- (f) to ensure development does not detract from the scenic quality of the rural area and is not unduly visually intrusive, and
- (g) to minimise the cost to the community of providing, extending and maintaining public amenities and services.

### **2 Without development consent**

Agriculture (other than intensive livestock keeping establishments, animal boarding or training establishments and plant nurseries); home occupations.

### **3 Only with development consent**

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

### **4 Prohibited**

Advertising structures; boarding-houses; brothels; bus depots; bus stations; car repair stations; caravan parks; clubs; commercial premises; hotels; industries (other than rural home industries); junk yards; liquid fuel depots; mines; motels; motor showrooms; recreation facilities; refreshment rooms; residential flat buildings; road transport terminals; sawmills; service stations; shops; stock and sale yards; storage facilities; transport terminals; warehouses.

## **Zone No 1 (c1) (Rural (Rural Residential) Zone)**

### **1 Objectives of zone**

The objectives of this zone are:

- (a) to accommodate demands for rural residential development adjoining existing urban centres or in locations which are generally not of prime crop and pasture potential and which can provide sealed road access and an adequate potable water supply,
- (b) where appropriate, to provide a buffer zone between urban and rural land uses which does not permit intensive commercial agriculture,
- (c) to ensure protection of water resources for use in the public interest,
- (d) to protect trees and other vegetation in environmentally sensitive areas for scenic amenity, natural wildlife habitat or control of land degradation,
- (e) to ensure development is carried out in a manner that minimises risks from natural hazards, particularly bush fires and flooding, and
- (f) to minimise the cost to the community of providing, extending and maintaining public amenities and services.

### **2 Without development consent**

Home occupations.

### **3 Only with development consent**

Agriculture (other than intensive livestock keeping establishments and intensive commercial agriculture of any kind); animal boarding or training establishments; bed and breakfast establishments; child care centres in association with dwelling-houses; cluster housing; dual occupancies; dwelling-houses; home industries; places of public worship; recreation areas.

### **4 Prohibited**

Any purpose other than those included in item 2 or 3.

## **Zone No 1 (d) (Rural (Future Urban) Zone)**

### **1 Objectives of zone**

The objectives of this zone are:

- (a) to reserve land for future urban expansion, and
- (b) to restrict development of the land to ensure that future urban expansion may be carried out without interference and additional community costs caused by incompatible and premature development.

**2 Without development consent**

Home occupations and buildings ancillary to a dwelling-house.

**3 Only with development consent**

Agriculture (other than intensive livestock keeping establishments, animal boarding or training establishments and plant nurseries); dwelling-houses.

**4 Prohibited**

Any purpose other than those included in item 2 or 3.

**Zone No 1 (f) (Rural (State Forest) Zone)**

**1 Objectives of zone**

The objectives of this zone are:

- (a) to permit state forestry activity, and
- (b) to permit appropriate recreational development and activities.

**2 Without development consent**

Any development permitted under the [Forestry Act 1916](#); camping grounds; forestry; picnic grounds; recreation areas.

**3 Only with development consent**

Nil.

**4 Prohibited**

Any purpose other than those included in item 2.

**Zone No 2 (a) (Residential (Low Density) Zone)**

**1 Objectives of zone**

The objectives of this zone are:

- (a) to maintain, and provide for, areas with a low density residential character,
- (b) to enable a choice of housing types,
- (c) to ensure that the landscape and scenic quality of an area and the amenity enjoyed by residents is not, in the Council's opinion, adversely affected by development, and
- (d) to provide density controls for development.

## **2 Without development consent**

Dwelling-houses and ancillary buildings; home occupations (other than hairdressing).

## **3 Only with development consent**

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

## **4 Prohibited**

Advertising structures; animal boarding and training establishments; boarding-houses; brothels; bulk stores; car repair stations; caravan parks; clubs; commercial premises; hairdressing salons; hotels; industries (other than home industries); intensive livestock keeping establishments; institutions; junk yards; liquid fuel depots; mines; motels; motor showrooms; plant nurseries; public buildings; recreation establishments; recreation facilities; refreshment rooms; sawmills; service stations; shops; stock and sale yards; storage facilities; taverns; tourist facilities; transport terminals; warehouses.

## **Zone No 2 (b) (Residential (Medium Density) Zone)**

### **1 Objectives of zone**

The objectives of this zone are:

- (a) to maintain and provide for areas with a medium density residential character,
- (b) to enable a choice of housing types,
- (c) to permit appropriate commercial activities,
- (d) to provide density controls for development, and

(e) to ensure that the amenity enjoyed by residents is not, in the Council's opinion, unreasonably affected, given the other objectives of the zone.

**2 Without development consent**

Dwelling-houses and ancillary buildings; home occupations (other than hairdressing).

**3 Only with development consent**

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

**4 Prohibited**

Advertising structures; brothels; bulk stores; car repair stations; commercial premises; hairdressing salons; hotels; industries (other than home industries); intensive livestock keeping establishments; junk yards; liquid fuel depots; mines; motor showrooms; sawmills; service stations; shops; stock and sale yards; storage facilities; taverns; transport terminals; warehouses.

**Zone No 2 (v) (Residential (Village or Township) Zone)**

**1 Objectives of zone**

The objectives of this zone are:

- (a) to permit the variety of urban purposes required within small urban communities,
- (b) to enable a choice of housing types,
- (c) to provide density controls for development, and
- (d) to ensure that the amenity enjoyed by residents is not, in the Council's opinion, unreasonably affected, given the other objectives of the zone.

**2 Without development consent**

Dwelling-houses and ancillary buildings; home occupations.

**3 Only with development consent**

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

#### **4 Prohibited**

Advertising structures (other than those permitted by clause 30); brothels; extractive, offensive or hazardous industries; intensive livestock keeping establishments; mines.

### **Zone No 3 (a) (General Business Zone)**

#### **1 Objectives of zone**

The objectives of this zone are:

- (a) to provide sufficient land for the present and future commercial needs of the towns of Tumut and Batlow,
- (b) to provide a focus for commercial development which will encourage diversity and viability, and
- (c) to provide development standards.

#### **2 Without development consent**

Nil.

#### **3 Only with development consent**

Any purpose other than those included in item 4.

#### **4 Prohibited**

Advertising structures (other than those permitted by clause 30); brothels; caravan parks; dual occupancies, dwelling-houses or dwellings (other than those used in conjunction with a permissible purpose); industries; intensive livestock keeping establishments; junk yards; liquid fuel depots; mines; road transport terminals; sawmills; stock and sale yards; storage facilities; warehouses.

### **Zone No 3 (b) (Neighbourhood Business Zone)**

#### **1 Objectives of zone**

The objectives of this zone are:

- (a) to provide a location within the southern part of Tumut that is suitable for low scale commercial development, and
- (b) to ensure that commercial development does not, in the opinion of the

Council, adversely affect the amenity of surrounding residential development.

## **2 Without development consent**

Nil.

## **3 Only with development consent**

Child care centres; commercial premises; dual occupancies, dwelling-houses and dwellings attached to a purpose referred to in this item; home occupations; plant nurseries; professional consulting rooms; public buildings; recreation facilities; shops.

## **4 Prohibited**

Any purpose other than those included in item 3.

### **Zone No 4 (a) (General Industrial Zone)**

#### **1 Objectives of zone**

The objectives of this zone are:

- (a) to enable the establishment of a broad range of industrial purposes,
- (b) to encourage diversification of the industrial employment base,
- (c) to permit limited commercial and retail development in association with industrial and warehouse development,
- (d) to regulate the location of industries and brothels to ensure that the amenity of nearby residential areas is not, in the opinion of the Council, unduly affected, and
- (e) to enable the development of land for the purpose of a brothel, provided that, in recognition of the industrial nature of this zone, the brothel, whether by itself or taken together with any other brothel in the area, does not detract significantly from the industrial character envisaged by this zone.

#### **2 Without development consent**

Home occupations.

### **3 Only with development consent**

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

### **4 Prohibited**

Advertising structures (other than those permitted by clause 30); bed and breakfast establishments; boarding-houses; caravan parks; child care centres; clubs; cluster houses; commercial premises; dual occupancies, dwelling-houses or dwellings (other than those used in conjunction with a permissible purpose); extractive industries; holiday cabins; hospitals; hotels; mines; motels; offensive or hazardous industries; professional consulting rooms; public buildings; recreation establishments; refreshment rooms; shops (other than industrial retail outlets); taverns; tourist facilities.

## **Zone No 4 (b) (Light Industrial Zone)**

### **1 Objectives of zone**

The objectives of this zone are:

- (a) to provide land for light industries in locations which, because of their proximity to residential areas, are unsuitable for general industry, and
- (b) to provide the opportunity for areas with a high standard of industrial building design and a pleasant work environment.

### **2 Without development consent**

Nil.

### **3 Only with development consent**

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

### **4 Prohibited**

Advertising structures (other than those permitted by clause 30); airline terminals; boarding-houses; brothels; camping grounds; caravan parks; child care centres; clubs; dual occupancies, dwelling-houses and residential flat buildings (other than those used in conjunction with an industry and situated on the same land as the industry); hospitals; hotels; industries (other than light industries); institutions; junk yards; mines; motels; offensive or hazardous industries; places of assembly; places of public worship; professional consulting rooms; recreation establishments; recreation



facilities (other than indoor recreation facilities); roadside stalls; shops (other than industrial retail outlets); taverns; tourist facilities; units for aged persons; waste disposal.

## **Zone No 5 (a) (Special Uses Zone)**

### **1 Objectives of zone**

The objectives of this zone are:

- (a) to make provision for a variety of existing special uses such as schools, churches, hospitals, cemeteries and garbage depots and purposes ordinarily incidental or ancillary to those uses, and
- (b) to permit the community use of schools, churches and other appropriate special use sites, whether for gain or not.

### **2 Without development consent**

Nil.

### **3 Only with development consent**

The special use indicated on the map and any use ordinarily ancillary or incidental to that special use; community uses (whether for gain or not); utility installations.

### **4 Prohibited**

Any purpose other than those included in item 3.

## **Zone No 6 (a) (Open Space Recreation Zone)**

### **1 Objectives of zone**

The objectives of this zone are:

- (a) to provide sufficient land for the recreation needs of the community,
- (b) to provide a buffer between urban and rural land uses, and
- (c) to prevent incompatible urban development on flood liable land.

### **2 Without development consent**

Works for the purposes of landscaping and gardening.

### **3 Only with development consent**

Agriculture (other than intensive livestock keeping establishments, animal boarding or training establishments and plant nurseries); bowling greens; camping grounds; caravan parks; clubs; forestry; golf courses; parks; public baths; public reserves; racecourses; recreation areas; recreation facilities; refreshment rooms; roads; showgrounds; uses or buildings associated with those purposes which are under the care, control and management of the Council; utility installations.

### **4 Prohibited**

Any purpose other than those included in item 2 or 3.

## **Zone No 8 (a) National Park, Nature Reserve and Flora and Fauna Reserve Zone**

### **1 Objectives of zone**

The objectives of this zone are:

- (a) to conserve the scenic and environmental qualities of the land,
- (b) to identify, and permit land to be used as, national parks, nature reserves and state recreation areas or for certain other recreational and educational purposes, and
- (c) to enable the effective and efficient management of lands reserved or dedicated under the [National Parks and Wildlife Act 1974](#).

### **2 Without development consent**

Purposes authorised under the [National Parks and Wildlife Act 1974](#) for national parks and nature reserves.

### **3 Only with development consent**

Any works ancillary to the requirements of a flora and fauna reserve.

### **4 Prohibited**

Any purpose other than those included in item 2 or 3.

## **Zone No 9 (a) (Proposed Arterial Road Zone)**

### **1 Objectives of zone**

The objective of this zone is to provide for the opening of new, and the widening of existing, arterial roads as identified on the map.

### **2 Without development consent**

Drainage; open space; roads; widening of existing roads.

### **3 Only with development consent**

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

### **4 Prohibited**

Any purpose other than those included in item 2 or 3.

## **Zone No 9 (b) (Proposed Local Road Zone)**

### **1 Objectives of zone**

The objective of this zone is to provide for the opening of new, and widening of existing, local roads identified on the map.

### **2 Without development consent**

Drainage; open space; roads; widening of existing roads.

### **3 Only with development consent**

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

### **4 Prohibited**

Any purpose other than those included in item 2 or 3.

## **10 Development for certain additional purposes**

Notwithstanding clause 9, a person may, with the consent of the Council, carry out development on land referred to in Column 1 of Schedule 2 for a purpose specified in Column 2 shown opposite that land, subject to any requirements specified in Column 3 shown opposite that land being met.

## **Part 3 Special provisions**

### **Division 1 Subdivision generally**

#### **11 Subdivision**

A person shall not subdivide land to which this plan applies except with the consent of the Council.

### **Division 2 Development in rural zones**

#### **12 Subdivision of land in Zone No 1 (a), 1 (b), 1 (c) or 1 (c1)**

- (1) This clause applies to land within Zone No 1 (a), 1 (b), 1 (c) or 1 (c1).
- (2) The Council shall not consent to the subdivision of land to which this clause applies except in accordance with this clause.
- (3) In making an application to subdivide land under this clause, the applicant shall indicate in the application the approximate location of any existing dwellings on the land and shall:
  - (a) identify any allotment which is intended to be used for the purpose of agriculture, and
  - (b) (Repealed)
  - (c) indicate the purpose for which any other allotment is intended to be used.
- (4) In respect of land within Zone No 1 (a), the Council may consent to the creation of:
  - (a) an allotment of any area for the purpose of agriculture, but not if the allotment is less than 150 hectares in area and there is a dwelling-house on the allotment, and
  - (b) an allotment of land for a purpose other than agriculture or a dwelling-house.
- (5)-(7) (Repealed)
- (8) In the case of land within Zone No 1 (b), the Council may consent to the creation of:
  - (a) an allotment of any area for the purposes of agriculture, but not if the allotment is less than 30 hectares in area and there is a dwelling-house on the allotment, and
  - (b) an allotment of land for a purpose other than agriculture or a dwelling-house.
- (9) In respect of land within Zone No 1 (c), the Council may consent to the creation of allotments if the number of allotments to be created is not greater than 1 for every 2 hectares of the land the subject of the application.
- (10) In respect of land within Zone No 1 (c1), the Council may consent to the creation of

an allotment if the number of allotments to be created is not greater than 1 for every 5,000 square metres of the land the subject of the application.

(11) (Repealed)

**Note—**

Clause 9 of the *State Environmental Planning Policy (Rural Lands) 2008* enables subdivision of lots smaller than allowed by this plan for the purposes of primary production.

**13 Dwelling-houses and dwellings in Zone No 1 (a), 1 (b), 1 (c), 1 (c1) or 1 (d)**

- (1) This clause applies to land within Zone No 1 (a), 1 (b), 1 (c), 1 (c1) or 1 (d).
- (2) A dwelling-house or dual occupancy may, with the consent of the Council, be erected on land to which this clause applies, but only if the land:
  - (a) in respect of land within Zone No 1 (a):
    - (i) has an area of not less than 150 hectares,
    - (ii) is the whole of an existing holding,
    - (iii) (Repealed)
    - (iv) is an allotment created for the purposes of a rural dwelling since 13 March 1964 under the provisions of Interim Development Order No 1, 2 or 3—Shire of Tumut,
    - (v) is an allotment lawfully created for any other purpose since 13 March 1964 under the provisions of Interim Development Order No 1, 2 or 3—Shire of Tumut having an area of less than 40 hectares and comprising Class 4 and 5 land as determined by the Director-General of the Department of Agriculture and Fisheries, or
    - (vi) is an allotment having an area in excess of 40 hectares and that was in separate ownership at the appointed day,
  - (b) in respect of land within Zone No 1 (b):
    - (i) has an area of not less than 30 hectares,
    - (ii) has an area of not less than 15 hectares and the Council is satisfied (having regard to the level of crop establishment and agricultural infrastructure development on the land and the advice of the Director-General of the Department of Agriculture and Fisheries) that the land is, and will be, used for intensive agriculture,
    - (iii) is the whole of an existing holding, or

- (iv) is an allotment created for the purposes of a rural dwelling since 13 March 1964 under the provisions of Interim Development Order No 1, 2 or 3—Shire of Tumut,
- (c) in respect of land within zone No 1 (c):
- (i) is an allotment created in accordance with clause 12 (9) and the density of dwelling-houses or attached dual occupancies to be erected does not exceed 1 per 2 hectares,
  - (ii) is the whole of an existing holding, or
  - (iii) is an allotment created for the purposes of a rural dwelling since 13 March 1964 under the provisions of Interim Development Order No 1, 2 or 3—Shire of Tumut,
- (d) in respect of land within Zone No 1 (c1):
- (i) is an allotment created in accordance with clause 12 (10) and the density of dwelling-houses or attached dual occupancies to be erected does not exceed 1 per 5,000 square metres,
  - (ii) is the whole of an existing holding, or
  - (iii) is an allotment created for any purpose under the provisions of Interim Development Order No 1, 2 or 3— Shire of Tumut,
- and has sealed road access and is capable of being connected to the Council's water supply, or
- (e) in respect of land within Zone No 1 (d), is the whole of an existing holding.
- (3) A person shall not erect a cluster housing development on land in Zone No 1 (c) or 1 (c1) except with the consent of the Council, which shall not be granted unless the density of dwellings does not exceed:
- (a) in Zone No 1 (c)—1 dwelling per 2 hectares, or
  - (b) in Zone No 1 (c1)—1 dwelling per 5,000 square metres.
- (4) The Council shall not consent to the erection of a dwelling-house or dual occupancy on land to which this clause applies unless it has taken into consideration:
- (a) the design, orientation and materials of the dwelling-house or dual occupancy,
  - (b) the effect of the dwelling-house or dual occupancy on the landscape,
  - (c) whether there is provision of an adequate all weather access,
  - (d) whether there is provision of an adequate potable water supply and waste

disposal system,

- (e) the effect of natural hazards such as bush fire and flooding,
- (f) the location of the dwelling-house or dual occupancy in relation to surrounding land uses, and
- (g) the impact on existing and potential agricultural productivity of the land and of surrounding land.

- (5) One or more additional dwelling-houses may, with the consent of the Council, be erected on land within Zone No 1 (a) or 1 (b) if the Council is satisfied that each dwelling-house will be occupied by a person employed or engaged, by the owner of the land, in the use of that land for the purposes of agriculture and that the dwelling-house will be located on the same allotment of land as the existing dwelling-house.
- (6) Where the Council is satisfied that a genuine agricultural need exists for temporary accommodation, such development may, with the consent of the Council, be erected on land within Zone No 1 (a) or 1 (b) for seasonal worker accommodation.

### **13A Dwelling entitlements on existing concessional lots**

The amendment of this plan by the [State Environmental Planning Policy \(Rural Lands\) 2008](#) does not affect any entitlement arising under a provision of this plan (as in force before that amendment) to erect a dwelling-house on a lot, if:

- (a) the lot was created before that commencement, or
- (b) development consent to the creation of the lot was applied for, or granted, before that commencement.

### **14 Other development in Zone No 1 (a), 1 (b) or 1 (c)**

- (1) This clause applies to land within Zone No 1 (a), 1 (b) or 1 (c).
- (2) The Council may consent to the carrying out of development of an allotment of land to which this clause applies for a purpose other than agriculture, a dwelling-house or a utility installation, only if:
  - (a) the allotment has an area of not less than 2 hectares, or
  - (b) where the allotment has a frontage to an arterial road, the allotment has an area of not less than 4 hectares with a frontage of not less than 200 metres to that road and no development (other than landscaping) is carried out within 20 metres of the arterial road.
- (3) The Council shall not consent to the carrying out of development under this clause unless it has taken into account:

- (a) the effect on the landscape and scenic quality of the area,
- (b) the provision of adequate access, water supply and waste disposal,
- (c) the effect on adjoining land uses,
- (d) hazards such as bush fires and flooding,
- (e) the impact on the existing and potential agricultural productivity of the land and surrounding land,
- (f) the impact on water quality, fisheries habitat and access by anglers to streams, where appropriate, and
- (g) the principle that uses other than agriculture should be located on the poorer quality agricultural land.

#### **15 Development on land fronting an arterial road**

- (1) The Council shall not consent to the carrying out of development of 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 carrying out of development of land within Zone No 1 (a), 1 (b) or 1 (c) for any purpose listed in Schedule 3 if the proposed development will have direct access to:
  - (a) an arterial road, or
  - (b) a road connecting with an arterial road, and the access to that road is within 90 metres (measured along the road alignment of the connecting road) of the alignment of the arterial road.

#### **16 Development in rural zones**

- (1) This clause applies to land within Zone No 1 (a), 1 (b), 1 (c), 1 (c1) or 1 (d).
- (2) In determining whether to grant consent to development of land to which this clause



applies, the Council shall take into consideration the following things:

- (a) the Soil Conservation Service's guidelines for activities within protected land within the meaning of the *Soil Conservation Act 1938*,
  - (b) in respect of major development, the advice of the Commissioner of the Soil Conservation Service,
  - (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 activity on the Murray and Murrumbidgee catchment areas,
  - (f) the location, height and appearance of any proposed building,
  - (g) the effect of the development on fisheries habitat.
- (3) A building shall not be erected on land to which this clause applies unless it is sited to blend into, or to complement, the landscape and it does not obtrude above any ridgelines.

### **Division 3 Development in residential zones**

#### **17 Dwelling-houses and dwellings in Zone No 2 (a), 2 (b) or 2 (v)**

- (1) This clause applies to land within Zone No 2 (a), 2 (b) or 2 (v).
- (2) A person must not erect a dwelling-house, dwelling, cluster housing or dual occupancy on land to which this clause applies unless it complies with the following residential densities:
  - (a) in respect of land within Zone No 2 (a)—not more than one dwelling or attached dual occupancy per 600 square metres,
  - (b) in respect of land within Zone No 2 (b) or 2 (v):
    - (i) not more than one small dwelling per 225 square metres, and
    - (ii) not more than one medium dwelling per 325 square metres, and
    - (iii) not more than one large dwelling per 440 square metres.
- (3) A person must not erect a building, being a dwelling-house, dwelling, cluster housing or an attached dual occupancy, on land to which this clause applies unless the floor space ratio of the building is not greater than 0.3:1 for a single storey building and 0.5:1 for a 2 storey building.

### **18 Other development in Zone No 2 (a), 2 (b) or 2 (v)**

- (1) This clause applies to land within Zone No 2 (a), 2 (b) or 2 (v).
- (2) The Council may consent to the carrying out of development of land to which this clause applies for the purposes of a building (other than a dwelling-house, dwelling, cluster housing or a dual occupancy) only if:
  - (a) the floor space ratio of the building will be not greater than 0.5:1, and
  - (b) the Council has taken into account the effect of the development on surrounding land uses.

### **Division 4 Development in business zone**

#### **19 Floor space ratios in Zone No 3 (a) or 3 (b)**

- (1) This clause applies to land within Zone No 3 (a) or 3 (b).
- (2) The Council may consent to the carrying out of development of land to which this clause applies for the purposes of a building only if the floor space ratio of the building will be not greater than:
  - (a) in the case of land within Zone No 3 (a)—1.5:1, or
  - (b) in the case of land within Zone No 3 (b)—0.5:1.

### **Division 5 Development in industrial zone**

#### **20 Subdivision of land in Zone No 4 (a) or 4 (b)**

The Council shall not consent to the subdivision of land within Zone No 4 (a) or 4 (b) unless the area of each allotment to be created by the subdivision is not less than 750 square metres and the frontage to any road is not less than 20 metres.

#### **21 Buildings in Zone No 4 (a) or 4 (b)**

- The Council may consent to the carrying out of development for the purposes of a building on land within Zone No 4 (a) or 4 (b) only if:
- (a) the building will stand no closer than 7.5 metres to the front boundary of the land,
  - (b) the Council has taken into account the requirements for parking and manoeuvring of heavy vehicles and cars, and
  - (c) the floor space ratio of the building is not greater than 0.6:1.

## **Division 6 Development in open space zone**

### **22 Restrictions on development in Zone No 6 (a)**

The Council shall not consent to the carrying out of development on land within Zone No 6 (a) (being land owned or controlled by the Council) unless consideration has been given to:

- (a) the need for the proposed development on 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.

## **Division 7 Conservation of heritage items**

### **23 Heritage items**

(1) A person shall not, in respect of heritage item:

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

except with the consent of the Council.

(2) The Council shall not grant consent to a development application under subclause (1) unless it has taken into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the item and any stylistic or horticultural features of its setting.

### **24 Development in the vicinity of heritage items**

The Council shall not grant consent to an application to carry out development on land in the vicinity of a heritage item unless it has made an assessment of the effect the carrying out of that development will have on the heritage significance of the item and its setting.

## **25 Heritage conservation areas**

- (1) A person shall not, in respect of a heritage conservation area:
  - (a) demolish or alter a building or work within the area,
  - (b) damage or move a relic within the area,
  - (c) excavate for the purpose of exposing or removing a relic within the area,
  - (d) damage or despoil a place within the area, or
  - (e) erect a building on or subdivide land within the area,except with the consent of the Council.
- (2) The Council shall not grant consent to an application under subclause (1) unless it has taken into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage conservation area.
- (3) The Council shall not grant consent to an application made in pursuance of subclause (1), being an application to erect a new building or to alter an existing building, unless the Council has made an assessment of:
  - (a) the pitch and form of the roof,
  - (b) the style, size, proportion and position of the openings for windows and doors, and
  - (c) whether the colour, texture, style, size and type of finish of the materials to be used on the exterior of the building are compatible with the materials used in the existing buildings in the heritage conservation area.
- (4) Nothing in clauses 6, 9 or 10 of *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development* authorises the carrying out of development referred to in subclause (1) without the need to obtain development consent.

## **26 Heritage advertisements and notifications**

- (1) Except as provided by subclause (2):
  - (a) the provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of:
    - (i) the demolition of a building or work that is a heritage item,
    - (ii) the demolition of a building or work within a heritage conservation area, and
    - (iii) the use of a building or land referred to in clause 27 for the purpose which, but for that clause, would be prohibited under this plan,

in the same way as those provisions apply to and in respect of designated development, and

(b) where a person makes a development application to demolish a building or work that is a heritage item, the Council shall not grant consent to that application until 28 days after the Council has notified the Secretary of the Heritage Council of its intention to do so.

(2) Subclause (1) does not apply to the partial demolition of a heritage item or a building or work within a heritage conservation area if, in the opinion of the Council, the partial demolition will be of a minor nature and will not adversely affect the heritage significance of the heritage item, building or work in relation to the environmental heritage of the Shire of Tumut.

## **27 Conservation incentives relating to heritage items**

(1) Nothing in this plan prevents the Council from granting consent to an application to:

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

if it is satisfied that:

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

## **28 Provisions relating to heritage items covered by conservation instruments**

Clauses 23, 25 and 26 do not apply where the building, work, relic or place that is a heritage item or is within a heritage conservation area is the subject of an interim conservation order or a permanent conservation order under the [Heritage Act 1977](#).

## **Division 8 General**

### **29 Advertisement of certain applications**

The provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of development for the purposes specified in Schedule 4 in the same way as those provisions apply to and in respect of designated development.

### **30 Advertising structures**

A person may erect an advertising structure with the consent of the Council but only if:

- (a) in the case of land within Zone No 1 (a), 1 (b), 4 (a) or 4 (b), the advertising structure is used for displaying an advertisement indicating the purpose for which the premises or land is being used, or for indicating the location of places of scientific, historic or scenic interest,
- (b) in the case of land within Zone No 2 (v) or 3 (a), the advertising structure exhibits an advertisement related to the use of the land on which it is situated, and
- (c) in all cases, the advertising structure will not interfere with the amenity of the area or pose a hazard to passing vehicular traffic.

### **31 Acquisition of land in Zone No 6 (a), 9 (a) or 9 (b)**

- (1) The owner of any land within Zone No 9 (a) may, by notice in writing, require the RTA to acquire the land.
- (2) On receipt of such a notice, the RTA must acquire the land if:
  - (a) the land is vacant, or
  - (b) the land is not vacant but:
    - (i) the land is included in a 5 year works program of the RTA current at the time of the receipt of the notice, or
    - (ii) the RTA has decided not to give concurrence under subclause (3) to an application for consent to the carrying out of development on the land, or
    - (iii) the RTA is of the opinion that the owner of the land will suffer hardship if the land is not acquired within a reasonable time,but the RTA is not required to acquire the land if it might reasonably be required to be dedicated as a public road.
- (3) A person may, with the consent of the Council and the concurrence of the RTA, carry out development on land within Zone No 9 (a):
  - (a) for a purpose for which development may be carried out on land in an adjoining zone, or
  - (b) for any other purpose which is compatible with development which may be carried out on land in an adjoining zone.
- (4) In deciding whether to grant concurrence to proposed development under this clause, the RTA must take the following matters into consideration:
  - (a) the need to carry out development on the land for the purpose for which the land is reserved,

- (b) the imminence of acquisition,
  - (c) the likely additional cost to the RTA resulting from the carrying out of the proposed development.
- (5) The owner of any land within Zone No 6 (a) or 9 (b) may, by notice in writing, require the Council to acquire the land, but only in the case where development consent has been refused by the Council.
- (6) On receipt of a notice referred to in subclause (5), the Council shall acquire the land.
- (7) Nothing in subclause (6) shall require the Council to acquire land where such land may be required to be provided without cost to the Council as a condition of approval of a subdivision of adjoining land in the same ownership.
- (8) Land acquired under this clause may be developed, with the consent of the Council, for any purpose, until such time as it is required for the purpose for which it was acquired.
- (9) In this clause:

**the RTA** means the Roads and Traffic Authority constituted under the [Transport Administration Act 1988](#).

**vacant land** means land on which, immediately before the day on which a notice under subclause (1) is given there were no buildings other than fences.

### **32 Consultation with public authorities**

If, in the opinion of the Council, a proposed development is likely to:

- (a) create a risk of soil erosion or other land degradation,
- (b) affect wildlife and wildlife movement patterns, or
- (c) have an impact on the visual catchment of the Kosciusko National Park,

the Council shall consult with the Soil Conservation Service (in the case of the matters referred to in paragraph (a)) or with the National Parks and Wildlife Service (in the case of the matters referred to in paragraphs (b) and (c)) and shall take into account any advice given in relation to the proposed development before determining the application.

### **33 Flood liable land, land subject to bushfire hazards and filled land**

- (1) For the purpose of this clause, **floodway** means the channel of a river or stream and those portions of the flood plain adjoining the channel which, in the opinion of the Council, are required to carry and discharge floodwaters, and includes land determined in consultation between the Council and the Department of Water Resources or the Public Works Department to be a floodway.

- (2) The Council shall not grant consent to the carrying out of any development on land that is, or is part of, a floodway unless it has made an assessment of:
  - (a) the effect of the proposed development on the efficiency and capacity of the floodway to carry and discharge floodwaters,
  - (b) the safety of the proposed development in time of flood, and
  - (c) whether the proposed development involves any possible risk to life, human safety or private property in time of flood.
- (3) The Council shall not grant consent to the carrying out of any development on land that is, in the opinion of the Council, liable to flooding unless the Council is satisfied that adequate measures are taken to:
  - (a) reduce the incidence of flooding on the land,
  - (b) prevent the incidence of structural damage likely to be caused to any buildings to be located on the land,
  - (c) enable the evacuation of people without cost to the community, and
  - (d) ensure the floor level of any dwelling-house is a minimum of 0.5 metres above the 1 in 100 year flood level.
- (4) The Council shall not grant consent to the subdivision of land or to the erection of a building on land which is subject to bush fire hazards by reason of the vegetation on the land or on any adjacent land unless, in the opinion of the Council:
  - (a) adequate provision is made for access for fire fighting vehicles,
  - (b) adequate safeguards are adopted in the form of fire breaks, reserves and fire radiation zones, and
  - (c) adequate water supplies are available for fire fighting purposes.
- (5) A person shall not carry out development for the purposes of a building or other structure on land filled with wood or bark or other unstable material.

#### **34 Height of buildings**

A person shall not erect a building containing more than 2 storeys above ground level without the consent of the Council.

#### **35 Services**

The Council shall not consent to the carrying out of development on land to which this plan applies unless arrangements satisfactory to the Council have been made to provide for:



- (a) a water supply,
- (b) disposal of sewage,
- (c) drainage, and
- (d) access,

to or from the land.

### **36 Tree preservation orders**

A tree preservation order in force immediately before the appointed day relating to land to which this plan applies is to be taken to be a tree preservation order made by the Council under clause 8 of the *Environmental Planning and Assessment Model Provisions 1980* and may be rescinded or varied in accordance with that clause.

### **37 Development within the Airport Development Area**

- (1) This clause applies to land in the local government area of Tumut known as the Airport Development Area, as shown edged heavy black on the map marked "*Tumut Local Environmental Plan 1990 (Amendment No 23)*".
- (2) Despite any other provision of this plan, development within the Airport Development Area may be carried out only with the consent of the Council.
- (3) The Council may grant consent to development on land within the Airport Development Area for any of the following purposes:
  - (a) purposes ancillary to Tumut Airport,
  - (b) freight warehousing and freight distribution facilities,
  - (c) agricultural purposes, including buildings and structures.
- (4) Before granting consent to development on land within the Airport Development Area, the Council must be satisfied that:
  - (a) the proposed use will have no adverse effect (other than an adverse effect of an insubstantial nature) on the current and future operation of Tumut Airport, and
  - (b) the proposed use will not exceed the limitations specified in the map marked "*Obstacle Limitation Surface Map*".
- (5) Before granting consent to development on land within the Airport Development Area, the Council must take the following into consideration:
  - (a) any comments or advice received from the Civil Aviation Safety Authority of the Commonwealth in relation to the development application,

- (b) Australian Standard AS 2021—2000, *Acoustics—Aircraft noise intrusion—Building siting and construction*,
- (c) any impact the proposed development may have on the following within the locality:
  - (i) residential amenity,
  - (ii) Aboriginal heritage items,
  - (iii) flooding,
  - (iv) watercourses,
  - (v) threatened species or threatened species habitats, including aquatic habitats.

### **38 Classification and reclassification of public land**

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

**Note—**

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

- (2) The public land described in Part 1 or Part 2 of Schedule 5 is classified, or reclassified, as operational land for the purposes of the [Local Government Act 1993](#).
- (3) The public land described in Part 3 of Schedule 5 is classified, or reclassified, as community land for the purposes of the [Local Government Act 1993](#).
- (4) The public land described in Part 1 of Schedule 5:
  - (a) does not cease to be a public reserve to the extent (if any) that it is a public reserve, and
  - (b) continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants that affected the land before its classification, or reclassification, as operational land.
- (5) The public land described in Part 2 of Schedule 5, to the extent (if any) that it is a public reserve, ceases to be a public reserve when the description of the land is inserted into that Part and is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except:

- (a) those (if any) specified for the land in Column 3 of Part 2 of Schedule 5, and
- (b) any reservations that except land out of the Crown grant relating to the land, and
- (c) reservations of minerals (within the meaning of the *Crown Lands Act 1989*).

**Note—**

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

## Schedule 1 Heritage items

(Clause 5 (1))

### *Adelong*

Adelong Urban Conservation Area.  
Bank of New south Wales Cnr Campbell and Tumut Streets.  
Public School Group, comprising Public School and Headmaster's residence, Gilmore Road.  
St Pauls Anglican Church, Gilmore Road.  
Former Uniting Church, Lockhart Street (Methodist, Wesleyan).  
Adelong Falls Gold Processing Site (Permanent Conservation Order).

### *Mount Adrah (part)*

Snowy Mountains Highway, three timber suspension bridges crossing Nacki Nacki Creek.

### *Tumut*

Tumut Urban Conservation Area.  
All Saints Anglican Church, River Street.  
House, 12 Wynyard Street.  
Police Station, Residence and Lockup, Wynyard Street.  
Courthouse, Cnr Wynyard and Fitzroy Streets.  
Former Infants School, Wynyard Street.  
Oriental Hotel, Cnr Wynyard and Fitzroy Streets.  
Royal Hotel (formerly Rising Moon), Wynyard Street.  
Bank and Hotel Group, Cnr Russell and Wynyard Streets.  
National Australia Bank, Cnr Russell and Wynyard Streets.  
Westpac Bank, Cnr Russell and Wynyard Streets.  
Hotel Tumut, Russell Street.  
Commercial Hotel, Cnr Wynyard and Russell Streets.  
School of Arts, Wynyard Street.  
Post Office, Wynyard Street.  
St Mary's Roman Catholic Church and Presbytery, Capper Street.

## Schedule 2 Development for certain additional purposes

(Clause 10)

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Land</b>	<b>Purpose</b>	<b>Requirements</b>

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Lot 18, DP 23354, Sunnyside Avenue, Batlow.	2 dwellings.	Landscaping to the satisfaction of the Council.
Lot 2, DP 592731, Lambie Street, Tumut.	2 dwellings in addition to any other permitted use.	The 2 dwellings shall be located within 42.5 metres of the Lambie Street frontage.
Lot B, DP 360928 and Lot 2, DP 592731, Lambie and Broughton Streets, Tumut.	Single storey dwellings.	Density not greater than 60 persons per hectare.
Lot 1, DP 612013, Lambie Street, Tumut.	Single storey dwellings.	Density not greater than 60 person per hectare.
Lot 1, DP 102071, Snowy Mountains Highway, Tumut.	Single storey dwellings.	Density not greater than 60 persons per hectare.
Lot 11, Section 16, Capper Street, Tumut.	Single storey dwellings.	Density not greater than 60 persons per hectare.
Lots 1 and 2, DP 609843, Corner Adelong and Gundagai Roads Tumut.	Places of assembly, crafts industries and shops, refreshment rooms, motel.	
Lots 4 and 5, DP 5068, Brungle Road, Tumut.	Cluster farm containing 33 lots plus 1 management lot.	
Portion 229, Snowy Mountains Highway, Parish of Blowering.	Art gallery, tea room and ancillary dwelling.	Adequate on-site parking and a setback from Snowy Mountains Highway of at least 200 metres.
So much of Lot 2, DP 785531, Mundongo Road, Tumut, as is within Zone No 1 (a), as shown edged heavy black on the map marked " <i>Tumut Local Environmental Plan 1990 (Amendment No 8)</i> ".	Subdivision into four allotments and the erection of a dwelling-house on each allotment.	Road frontage to be sealed.
Lot 10, subdivision of Lot 1 Section 92 Snowy Mountains Highway, Tumut.	Service station/food stop.	No access to Bundarra Crescent unless that road is fully constructed and sealed.
Lots 259-262, DP 757252 and part of the Tumut Bush Common, bounded by Quandong and Simpson Streets, Currawong Road and the Tumut Bush Common, Tumut, as shown edged heavy black on the map marked " <i>Tumut Local Environmental Plan 1990 (Amendment No 22)</i> ".	One general store.	Adequate on-site parking and landscaping to the satisfaction of the Council.

Lot 1, DP 528649, Lot 3, DP 560744 and Lot 4, DP 513702 Wee Jasper Road, Bombowlee.	Development associated with aviation such as hangars or tie-down areas and associated residential development comprising dwellings.	Land on which development is to occur to be above the 1:100 year flood level and the use of all lots to be linked to the operations of Tumut Aerodrome. Land to be part of a neighbourhood scheme under the <i>Community Land Management Act 1989</i> .
Lot 1, DP 344412 and Lot 2, DP 1014636, East Street, Tumut.	Tourist facility.	All buildings are to be: (a) compatible in style with the existing "Cramarric" bed and breakfast establishment and tourist facility situated on Lot 1, DP 344412, and  (b) connected to the town's sewerage system.

### **Schedule 3 Development not permitted with direct access to a main or arterial road**

(Clause 15)

Bulk stores  
Caravan parks  
Car repair stations  
Clubs  
Commercial premises  
Educational establishments  
Hospitals  
Hotels  
Industries (other than home or rural industries)  
Institutions  
Junk yards  
Liquid fuel depots  
Mines  
Motels  
Places of public assembly  
Places of public worship  
Plant nurseries  
Recreation establishments  
Recreation facilities  
Refreshment rooms  
Service stations  
Stock and sales yards  
Transport terminals  
Warehouses

## Schedule 4 Development which must be advertised

(Clause 29)

- 1 Boarding houses; hotels or motels; residential flat buildings; dual occupancies; cluster housing; units for aged persons; places of public worship; educational establishments; hospitals.
- 2 Industries (other than rural industries) in Zone No 1 (a) or 2 (v).
- 3 Intensive livestock keeping establishments; junk yards; liquid fuel depots; saw-mills; stock and sales yards.

## Schedule 5 Classification and reclassification of public land

(Clause 38)

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

Column 1	Column 2
Locality	Description

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

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

### Part 3 Land classified, or reclassified, as community land

Column 1	Column 2
Locality	Description