



New South Wales

Kempsey Local Environmental Plan 1987 (Amendment No 55)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (G97/00020/PC-1)

KRISTINA KENEALLY, MP
Minister for Planning

2009 No 401

Clause 1 Kempsey Local Environmental Plan 1987 (Amendment No 55)

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1 Name of Plan

This Plan is *Kempsey Local Environmental Plan 1987 (Amendment No 55)*.

2 Commencement

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

3 Aims of Plan

The aims of this Plan are to amend *Kempsey Local Environmental Plan 1987*:

- (a) to rezone land at Phillip Drive and Belle O'Connor Drive, South West Rocks to Zone No 2 (a) (Residential "A" Zone), Zone No 7(a) (Wetlands Protection Zone) and Zone No 7 (b) (Environmental Protection (Habitat) Zone), and
- (b) to allow part of that land to be developed for residential purposes, subject to the preparation of a development control plan that must include measures to protect environmentally sensitive areas, and
- (c) to require satisfactory arrangements to be made for the provision of designated State public infrastructure and electricity infrastructure before the subdivision of the land, but only if the land is developed intensively for urban purposes.

4 Land to which Plan applies

- (1) This Plan applies to the land shown edged heavy black on the map marked "Kempsey Local Environmental Plan 1987 (Amendment No 55)" deposited in the office of Kempsey Shire Council.
- (2) However, this Plan does not apply to that part of the land shown edged red and lettered "DM" on that map, being *deferred matter* within the meaning of section 68 (5) of the *Environmental Planning and Assessment Act 1979*.

Schedule 1 Amendment of Kempsey Local Environmental Plan 1987

[1] Clause 5 Interpretation

Insert in appropriate order in the definition of *the map* in clause 5 (1):
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[2] Clauses 66 and 67

Insert in appropriate order:

66 Development on land at Phillip Drive and Belle O'Connor Drive, South West Rocks

- (1) This clause applies to the land shown edged heavy black on the map marked "Kempsey Local Environmental Plan 1987 (Amendment No 55)", other than the land shown edged red and lettered "DM" on that map (being land that is excluded under section 68 (5) of the Act).
- (2) The objectives of this clause are to ensure that:
 - (a) development enhances the natural environment, and
 - (b) future dwellings achieve acceptable residential amenity, having regard to noise and odour emanating from the South West Rocks Sewage Treatment Works, and
 - (c) environmental management works proceed concurrently with development, and
 - (d) infrastructure and facilities, including public open space, are provided in an efficient manner, and
 - (e) development occurs in accordance with a development control plan that has been prepared for the land.
- (3) Development consent must not be granted for development on land to which this clause applies unless a development control plan that provides for the matters specified in subclause (4) has been prepared for the land.
- (4) A development control plan must provide for all of the following:
 - (a) a staging plan for the timely and efficient release of urban land making provision for necessary infrastructure and sequencing,
 - (b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,

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- (c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation and Saltwater Creek and Lagoon,
 - (d) stormwater and water quality management controls,
 - (e) amelioration of natural, environmental and industrial hazards, including bush fire, acid sulfate soils, shallow groundwater table, mosquito breeding, noise and site contamination,
 - (f) detailed urban design controls showing the general subdivision pattern, residential densities and built form to achieve well designed urban development, including a range of site sensitive lot sizes,
 - (g) the identification and protection of any Aboriginal heritage relics on the land.
- (5) Development consent must not be granted for development on land to which this clause applies unless the Council is satisfied that arrangements have been made for the ongoing management of the land within Zone No 7 (b).
- (6) Despite any other provision of this plan, the following development is prohibited on land to which this clause applies:
- (a) in relation to land that is within Zone No 7 (a), development for the purposes of agriculture and tourist facilities,
 - (b) in relation to land that is within Zone No 7 (b), development for the purposes of advertisements.

67 Public infrastructure for land at Phillip Drive and Belle O'Connor Drive, South West Rocks

(1) Application

This clause applies to the land shown within Zone No 2 (a) (Residential "A" Zone) on the map marked "Kempsey Local Environmental Plan 1987 (Amendment No 55)", but does not apply to any such land if the whole or any part of it is in a special contributions area (as defined by section 93C of the Act).

(2) Designated State public infrastructure

The objective of subclause (3) is to require satisfactory arrangements to be made for the provision of designated State public infrastructure before the subdivision of land to which this clause applies to satisfy needs that arise from development on the land, but only if the land is developed intensively for urban purposes.

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- (3) Development consent must not be granted for the subdivision of land to which this clause applies if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the commencement of this clause, unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that lot.
- (4) Subclause (3) does not apply to:
- (a) any lot identified in the certificate as a residue lot, or
 - (b) any lot created by a subdivision previously consented to in accordance with this clause, or
 - (c) any lot that is proposed in the development application to be reserved or dedicated for public open space, public roads, public utility undertakings, educational facilities, or any other public purpose, or
 - (d) a subdivision for the purpose only of rectifying an encroachment on any existing lot.
- (5) *State Environmental Planning Policy No 1—Development Standards* does not apply to development for the purposes of subdivision on land to which this clause applies.
- (6) In this clause:
designated State public infrastructure means public facilities or services that are provided or financed by the State (or if provided or financed by the private sector, to the extent of any financial or in-kind contribution by the State) of the following kinds:
- (a) State and regional roads,
 - (b) land required for regional open space,
 - (c) land required for social infrastructure and facilities (such as land for schools, hospitals, emergency services and justice purposes).
- (7) **Electricity infrastructure**
Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that infrastructure for the supply of electricity that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.

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- (8) Subclause (7) does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any infrastructure for the supply of electricity.
- (9) This clause prevails over any other provision of this plan to the extent of any inconsistency.