



New South Wales

Kempsey Local Environmental Plan 2013 (Amendment No 22)

under the

Environmental Planning and Assessment Act 1979

The following local environmental plan is made by the local plan-making authority under the *Environmental Planning and Assessment Act 1979*.

JEREMY GRAY

As delegate for the Minister for Planning

Kempsey Local Environmental Plan 2013 (Amendment No 22)

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1 Name of Plan

This Plan is *Kempsey Local Environmental Plan 2013 (Amendment No 22)*.

2 Commencement

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

3 Land to which Plan applies

This Plan applies to:

- (a) land in the following Zones:
 - (i) Zone RU1 Primary Production,
 - (ii) Zone RU2 Rural Landscape,
 - (iii) Zone RU3 Forestry,
 - (iv) Zone RU4 Primary Production Small Lots,
 - (v) Zone RU5 Village, and
- (b) Lots 1, 2, 4 and 5, DP 882231, Loftus Road, Crescent Head, and
- (c) Part of Lot 1324, DP 785874, part of Lot 323, DP 855616 and part of Lot 2, DP 1121920, Belmore River Right Bank Road, Belmore River.

4 Maps

The maps adopted by *Kempsey Local Environmental Plan 2013* are amended or replaced, as the case requires, by the maps approved by the local plan-making authority on the making of this Plan.

5 Amendment of State Environmental Planning Policy (Integration and Repeals) 2016 Schedule 1 Rural land sharing communities

Omit clause 1 (k).

Schedule 1 Amendment of Kempsey Local Environmental Plan 2013

Part 7 Additional local provisions

Insert after clause 7.10:

7.11 Rural land sharing communities

(1) Aims of clause

This clause aims to encourage and facilitate the development of rural land sharing communities committed to environmentally sensitive and sustainable land use practices by:

- (a) enabling people who collectively own a single lot to erect multiple dwellings on that lot without dividing the lot (such as by subdivision or by contractual arrangements), and
- (b) enabling the sharing of facilities and resources to allow a wide range of communal rural living opportunities at a lower cost, and
- (c) facilitating development on rural land (preferably in a clustered style) without undue harm to the environment and without creating a demand for the unreasonable or uneconomic provision of public amenities or services, and
- (d) creating opportunities for an increase in rural population in areas that are experiencing population loss.

(2) Land to which clause applies

This clause applies to land in any rural zone but not to the following land:

- (a) land in an environmentally sensitive area for exempt or complying development within the meaning of clause 3.3,
- (b) land to which a wilderness protection agreement under the *Wilderness Act 1987* relates,
- (c) land that is a forestry area within the meaning of the *Forestry Act 2012*,
- (d) land that is within a special area or a controlled area under the *Water NSW Act 2014*.

(3) Rural land sharing community permitted with consent

The consent authority may grant development consent to development on land to which this clause applies for the purposes of 3 or more dwellings if satisfied of the following:

- (a) the land is a single lot with an area of not less than 10 hectares,
- (b) the height of any building on the land will not be more than 8 metres,
- (c) no more than 25 per cent of the land is prime crop and pasture land and no building containing a dwelling will be on any such land,
- (d) the development will not include development for the purposes of a camping ground, caravan park, eco-tourist facility or tourist and visitor accommodation, except where otherwise permissible on the land,
- (e) no building will be on land that has a slope in excess of 18 degrees or that is prone to mass movement,
- (f) the development is consistent with the aims of this clause.

(4) **Matter to be considered**

The consent authority must not grant development consent under this clause unless it has taken into account the following:

- (a) the arrangements for operating and managing the community,
- (b) the design of the proposed development,
- (c) the physical and heritage characteristics of the proposed site and surrounding land,
- (d) the availability of roads, utilities and other services,
- (e) the impact of the development on the environment and any present or future use of the land,
- (f) any other matter that the consent authority considers to be relevant.

(5) **Future management**

The consent authority must not grant consent to development under this Schedule unless it is satisfied that adequate provision will be made for the following:

- (a) water and waste management,
- (b) prevention, control and management of soil erosion,
- (c) bush fire management,
- (d) flora and fauna management, including the control of pests,
- (e) provision and maintenance of internal roads, boundary fences, water reticulation, service corridors for telephone and electricity cables and similar matters.

(6) **Density of development**

The consent authority must not grant consent to development under this clause if the development would result in more than the following number of dwellings on the land:

- (a) if the land has an area of 10 hectares or more but not more than 210 hectares—4 dwellings plus 1 additional dwelling for every 4 hectares of land greater than 10 hectares,
- (b) if the land has an area of 210 hectares or more—54 dwellings plus 1 additional dwelling for every 6 hectares of land greater than 210 hectares up to a maximum of 80 dwellings.

- (7) The consent authority must not grant consent to development under this clause if the development would result in the number of persons reasonably accommodated in all the dwellings on the land being greater than 4 times the maximum number of dwellings otherwise permitted by this clause.

(8) **Subdivision prohibited**

Subdivision (other than a subdivision permitted under clause 2.75 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*) of land is prohibited if development has been carried out on the land under this clause or under provisions similar to this clause.

Note. For example under the former *State Environmental Planning Policy No 15—Rural Landsharing Communities* or the *State Environmental Planning Policy (Integration and Repeals) 2016*.

There should be no application for a strata certificate in cases where subdivision is prohibited.

(9) **More than 1 dwelling may be treated as a single dwelling**

The consent authority may, for the purposes of this clause, treat 2 or more dwellings as a single dwelling if it is satisfied that, having regard to the sharing of any cooking or other facilities and any other relevant matter, the dwellings comprise a single household.

(10) **Definition**

In this clause:

prime crop and pasture land means:

- (a) land identified as prime crop and pasture land under *State Environmental Planning Policy No 15—Rural Landsharing Communities* as in force immediately before the repeal of that Policy, or
- (b) land identified by the Secretary of the Department of Industry that has been notified in writing to the Council as prime crop and pasture land for the purposes of this clause.