



New South Wales

Richmond Valley (Exempt and Complying Development) Local Environmental Plan 2008

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*. (G07/00007/PC)

FRANK SARTOR, M.P.,
Minister for Planning

Richmond Valley (Exempt and Complying Development) Local Environmental Plan 2008

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Richmond Valley (Exempt and Complying Development) Local Environmental Plan 2008*.

2 Aims of plan

This aim of this plan is to amend *Richmond River Local Environmental Plan 1992* (to the extent that it applies to the Richmond Valley local government area), *Casino Local Environmental Plan 1992* and *Copmanhurst Local Environmental Plan 1990* (to the extent that it applies to the Richmond Valley local government area) so as:

- (a) to adopt the exempt and complying development provisions contained in the Standard Instrument for principal local environmental plans, and
- (b) to give effect to the *Richmond Valley Council Development Control Plan No 13—Exempt and Complying Development* (as adopted by the Richmond Valley Council on 20 November 2007).

3 Land to which plan applies

This plan applies to the whole of the Richmond Valley local government area.

4 Amendment of Richmond River Local Environmental Plan 1992

Richmond River Local Environmental Plan 1992 is amended as set out in Schedule 1.

5 Amendment of Casino Local Environmental Plan 1992

Casino Local Environmental Plan 1992 is amended as set out in Schedule 2.

6 Amendment of Copmanhurst Local Environmental Plan 1990

Copmanhurst Local Environmental Plan 1990 is amended as set out in Schedule 3.

Schedule 1 Amendment of Richmond River Local Environmental Plan 1992

(Clause 4)

[1] Clause 7B Exempt development—Clarence Valley

Insert before clause 7B (1):

- (1A) This clause only applies in relation to land within the local government area of Clarence Valley.

[2] Clause 7C Complying development—Clarence Valley

Insert before clause 7C (1):

- (1A) This clause only applies in relation to land within the local government area of Clarence Valley.

[3] Clauses 7D–7F

Insert after clause 7C:

7D Exempt development—Richmond Valley

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

The section states that exempt development:

- (a) must be of minimal environmental impact, and
 - (b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), and
 - (c) cannot be carried out in a wilderness area (identified under the *Wilderness Act 1987*).
- (1) This clause only applies in relation to land within the local government area of Richmond Valley.
 - (2) The objective of this clause is to identify development of minimal environmental impact as exempt development.
 - (3) Development specified in Schedule 1 to the *Richmond Valley Council Development Control Plan No 13—Exempt and Complying Development* (as adopted by the Richmond Valley Council on 20 November 2007) that meets the standards for the development contained in that Schedule and that complies with the requirements of this clause is exempt development.

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Schedule 1

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- (4) To be exempt development, the development:
- (a) must meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
 - (b) must not, if it relates to an existing building, cause the building to contravene the *Building Code of Australia*, and
 - (c) must not be designated development, and
 - (d) must not be carried out on land that comprises, or on which there is, a heritage item listed in Schedule 1 or on the State Heritage Register under the *Heritage Act 1977* or that is subject to an interim heritage order under the *Heritage Act 1977*, and
 - (e) must not be carried out in an environmentally sensitive area for exempt or complying development (as defined in clause 7F), and
 - (f) must not be development that requires consent under clause 18A.
- (5) Development that relates to an existing building that is classified under the *Building Code of Australia* as class 1b or class 2–9 is exempt development only if:
- (a) the building has a current fire safety certificate or fire safety statement, or
 - (b) no fire safety measures are currently implemented, required or proposed for the building.

7E Complying development—Richmond Valley

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

The section states that development cannot be complying development if:

- (a) it is on land that is critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), or
- (b) it is on land within a wilderness area (identified under the *Wilderness Act 1987*), or
- (c) the development is designated development, or
- (d) the development is on land that comprises, or on which there is, an item of environmental heritage, or
- (e) the development requires concurrence (except a concurrence of the Director-General of the Department of Environment and Climate Change in respect of development that is likely to significantly affect a threatened species, population, or ecological

community, or its habitat (identified under the *Threatened Species Conservation Act 1995*), or

- (f) the development is on land identified as an environmentally sensitive area.
- (1) This clause only applies in relation to land within the local government area of Richmond Valley.
 - (2) The objective of this clause is to identify development as complying development.
 - (3) Development specified in Schedule 2 to the *Richmond Valley Council Development Control Plan No 13—Exempt and Complying Development* (as adopted by the Richmond Valley Council on 20 November 2007) that is carried out in compliance with:
 - (a) the development standards specified in relation to that development, and
 - (b) the requirements of this clause, is complying development.
 - (4) To be complying development, the development:
 - (a) must be permissible, with consent, in the zone in which it is carried out, and
 - (b) must meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
 - (c) must have an approval, if required by the *Local Government Act 1993*, from the Council for an on-site effluent disposal system if the development is undertaken on unsewered land, and
 - (d) must not be development that requires consent under clause 18A.
 - (5) A complying development certificate for development specified in Schedule 2 to the *Richmond Valley Council Development Control Plan No 13—Exempt and Complying Development* (as adopted by the Richmond Valley Council on 20 November 2007) is subject to the conditions (if any) set out in that Schedule for that development.

7F Environmentally sensitive areas excluded—Richmond Valley

- (1) This clause only applies in relation to land within the local government area of Richmond Valley.

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- (2) Exempt or complying development must not be carried out on any environmentally sensitive area for exempt or complying development.
- (3) For the purposes of this clause, ***environmentally sensitive area for exempt or complying development*** means any of the following:
 - (a) the coastal waters of the State,
 - (b) a coastal lake,
 - (c) land to which *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests* applies,
 - (d) land reserved as an aquatic reserve under the *Fisheries Management Act 1994* or as a marine park under the *Marine Parks Act 1997*,
 - (e) land within a wetland of international significance declared under the Ramsar Convention on Wetlands or within a World heritage area declared under the World Heritage Convention,
 - (f) land within 100 metres of land to which paragraph (c), (d) or (e) applies,
 - (g) land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance,
 - (h) land reserved as a state conservation area under the *National Parks and Wildlife Act 1974*,
 - (i) land reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna, geological formations or for other environmental protection purposes,
 - (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*.

Schedule 2 Amendment of Casino Local Environmental Plan 1992

(Clause 5)

Clauses 15A–15C

Omit clause 15A. Insert instead:

15A Exempt development

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

The section states that exempt development:

- (a) must be of minimal environmental impact, and
 - (b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), and
 - (c) cannot be carried out in a wilderness area (identified under the *Wilderness Act 1987*).
- (1) The objective of this clause is to identify development of minimal environmental impact as exempt development.
 - (2) Development specified in Schedule 1 to the *Richmond Valley Council Development Control Plan No 13—Exempt and Complying Development* (as adopted by the Richmond Valley Council on 20 November 2007) that meets the standards for the development contained in that Schedule and that complies with the requirements of this clause is exempt development.
 - (3) To be exempt development, the development:
 - (a) must meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
 - (b) must not, if it relates to an existing building, cause the building to contravene the *Building Code of Australia*, and
 - (c) must not be designated development, and
 - (d) must not be carried out on land that comprises, or on which there is, a heritage item listed in Schedule 1 or on the State Heritage Register under the *Heritage Act 1977* or that is subject to an interim heritage order under the *Heritage Act 1977*, and
 - (e) must not be carried out in an environmentally sensitive area for exempt or complying development (as defined in clause 15C).

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Schedule 2 Amendment of Casino Local Environmental Plan 1992

- (4) Development that relates to an existing building that is classified under the *Building Code of Australia* as class 1b or class 2–9 is exempt development only if:
- (a) the building has a current fire safety certificate or fire safety statement, or
 - (b) no fire safety measures are currently implemented, required or proposed for the building.

15B Complying development

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

The section states that development cannot be complying development if:

- (a) it is on land that is critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), or
 - (b) it is on land within a wilderness area (identified under the *Wilderness Act 1987*), or
 - (c) the development is designated development, or
 - (d) the development is on land that comprises, or on which there is, an item of environmental heritage, or
 - (e) the development requires concurrence (except a concurrence of the Director-General of the Department of Environment and Climate Change in respect of development that is likely to significantly affect a threatened species, population, or ecological community, or its habitat (identified under the *Threatened Species Conservation Act 1995*), or
 - (f) the development is on land identified as an environmentally sensitive area.
- (1) The objective of this clause is to identify development as complying development.
- (2) Development specified in Schedule 2 to the *Richmond Valley Council Development Control Plan No 13—Exempt and Complying Development* (as adopted by the Richmond Valley Council on 20 November 2007) that is carried out in compliance with:
- (a) the development standards specified in relation to that development, and
 - (b) the requirements of this clause,
- is complying development.

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- (3) To be complying development, the development must:
 - (a) be permissible, with consent, in the zone in which it is carried out, and
 - (b) meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
 - (c) have an approval, if required by the *Local Government Act 1993*, from the Council for an on-site effluent disposal system if the development is undertaken on unsewered land.
 - (4) A complying development certificate for development specified in Schedule 2 to the *Richmond Valley Council Development Control Plan No 13—Exempt and Complying Development* (as adopted by the Richmond Valley Council on 20 November 2007) is subject to the conditions (if any) set out in that Schedule for that development.

15C Environmentally sensitive areas excluded

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

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- (h) land reserved as a state conservation area under the *National Parks and Wildlife Act 1974*,
- (i) land reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna, geological formations or for other environmental protection purposes,
- (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*.

Schedule 3 Amendment of Copmanhurst Local Environmental Plan 1990

(Clause 6)

[1] Clause 5 Interpretation

Omit the definitions of *Development Control Plan No 1* and *Development Control Plan No 2* from clause 5 (1).

[2] Clauses 33–36

Omit clause 33. Insert instead:

33 Exempt and complying development—Clarence Valley

- (1) This clause only applies in relation to land within the local government area of Clarence Valley.
- (2) Development of minimal environmental impact is *exempt development* if it is listed as exempt development in, and complies with the relevant development standards and other requirements applied to the development by, the applicable exempt and complying development control plan.
- (3) Development is *complying development* if:
 - (a) it is listed as complying development in, and complies with the relevant development standards and other requirements applied to the development by, the applicable exempt and complying development control plan, and
 - (b) it is local development of a kind that can be carried out with consent on the land on which it is proposed, and
 - (c) is not an existing use, as defined in section 106 of the Act.
- (4) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in the applicable exempt and complying development control plan as in force when the certificate is issued.

34 Exempt development—Richmond Valley

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

The section states that exempt development:

- (a) must be of minimal environmental impact, and

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- (b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), and
 - (c) cannot be carried out in a wilderness area (identified under the *Wilderness Act 1987*).
- (1) This clause only applies in relation to land within the local government area of Richmond Valley.
- (2) The objective of this clause is to identify development of minimal environmental impact as exempt development.
- (3) Development specified in Schedule 1 to the *Richmond Valley Council Development Control Plan No 13—Exempt and Complying Development* (as adopted by the Richmond Valley Council on 20 November 2007) that meets the standards for the development contained in that Schedule and that complies with the requirements of this clause is exempt development.
- (4) To be exempt development, the development:
 - (a) must meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
 - (b) must not, if it relates to an existing building, cause the building to contravene the *Building Code of Australia*, and
 - (c) must not be designated development, and
 - (d) must not be carried out on land that comprises, or on which there is, a heritage item listed in Schedule 2 or on the State Heritage Register under the *Heritage Act 1977* or that is subject to an interim heritage order under the *Heritage Act 1977*, and
 - (e) must not be carried out in an environmentally sensitive area for exempt or complying development (as defined in clause 36).
- (5) Development that relates to an existing building that is classified under the *Building Code of Australia* as class 1b or class 2–9 is exempt development only if:
 - (a) the building has a current fire safety certificate or fire safety statement, or
 - (b) no fire safety measures are currently implemented, required or proposed for the building.

35 Complying development—Richmond Valley

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

The section states that development cannot be complying development if:

- (a) it is on land that is critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), or
 - (b) it is on land within a wilderness area (identified under the *Wilderness Act 1987*), or
 - (c) the development is designated development, or
 - (d) the development is on land that comprises, or on which there is, an item of environmental heritage, or
 - (e) the development requires concurrence (except a concurrence of the Director-General of the Department of Environment and Climate Change in respect of development that is likely to significantly affect a threatened species, population, or ecological community, or its habitat (identified under the *Threatened Species Conservation Act 1995*), or
 - (f) the development is on land identified as an environmentally sensitive area.
- (1) This clause only applies in relation to land within the local government area of Richmond Valley.
 - (2) The objective of this clause is to identify development as complying development.
 - (3) Development specified in Schedule 2 to the *Richmond Valley Council Development Control Plan No 13—Exempt and Complying Development* (as adopted by the Richmond Valley Council on 20 November 2007) that is carried out in compliance with:
 - (a) the development standards specified in relation to that development, and
 - (b) the requirements of this clause,is complying development.
 - (4) To be complying development, the development must:
 - (a) be permissible, with consent, in the zone in which it is carried out, and
 - (b) meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and

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- (c) have an approval, if required by the *Local Government Act 1993*, from the Council for an on-site effluent disposal system if the development is undertaken on unsewered land.
- (5) A complying development certificate for development specified in Schedule 2 to the *Richmond Valley Council Development Control Plan No 13—Exempt and Complying Development* (as adopted by the Richmond Valley Council on 20 November 2007) is subject to the conditions (if any) set out in that Schedule for that development.

36 Environmentally sensitive areas excluded—Richmond Valley

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

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