

## 13.2 PLANNING PROPOSAL - 600 MACLEAY VALLEY WAY, SOUTH KEMPSEY

<b>Officer</b>	Peter Orr, Strategic Projects Coordinator
<b>File No</b>	KLEP2013-AM-24
<b>Attachments</b>	1. Planning Proposal [13.2.1] 2. Consistency with SEPPs and S117 Directions [13.2.2]

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### PURPOSE

To consider the following planning proposal for progression to the next stage of the local plan making process.

<b>Proposal:</b>	<b>Permit the land use <i>Highway Service Centre</i></b>
<b>Location:</b>	600 Macleay Valley Way, South Kempsey (Lot 200 DP1177619)
<b>Proponent:</b>	KDC P/L on behalf of Spectrum Retail Group P/L
<b>Status:</b>	Planning proposal lodged

The next stage is to forward the planning proposal to the Minister for Planning for Gateway consideration. The Minister (or delegate) will consider if there is sufficient justification to proceed with the planning proposal and make a Gateway determination.

### 2018.139 RESOLVED

*Moved: Cl. Saul*  
*Seconded: Cl. Patterson*

- 1 That the planning proposal which seeks to permit the land use highway service centre at 600 Macleay Valley Way, South Kempsey, be submitted to the Minister for Planning for Gateway consideration pursuant to section 3.34 of the Environmental Planning and Assessment Act 1979.**
- 2 That the Secretary of the Department of Planning and Environment be requested to issue Council with written authorisation to exercise plan making delegations in relation to this proposal.**
- 3 Subject to the Gateway determination, community consultation for the planning proposal be undertaken.**

<b>Campbell</b>	F	<b>Hauville</b>	F	<b>McGinn</b>	F	<b>Morris</b>	F
<b>Patterson</b>	F	<b>Saul</b>	F	<b>Shields</b>	F	<b>Williams</b>	F

### ISSUES

The site at 600 Macleay Valley Way, South Kempsey, is located within the RU2-Rural Landscape zone. Under the provisions of the KLEP 2013, the land use *Highway Service Centre* is prohibited in the RU2-Rural Landscape zone.

The Planning Proposal is to amend *Schedule 1 Additional permitted uses* and the *Additional Permitted Uses Map – Sheet APU\_011B* in KLEP 2013 to permit (with development consent) the land use *Highway Service Centres* at the subject site.

The Roads and Maritime Service (RMS) has identified that two highway service centres are permitted either side of the Pacific Highway at the South Kempsey interchange. A highway service centre currently operates on the eastern side of the highway.

With respect to a western highway service centre, the property immediately to the north of the subject site, 556 Macleay Valley Way, was the subject of an amendment to KLEP 1987 in 2013, similar to the current planning proposal to permit with development consent a highway service centre on this land. Development consent was subsequently granted in 2015 for a highway service centre at this location, although the development has not yet been constructed.

This planning proposal is seeking an amendment to KLEP 2013 to permit a highway service centre at 600 Macleay Valley Way also. From a land-use planning perspective, either property, or perhaps both properties jointly, would be suitable for a highway service centre, being strategically located between the highway off ramp and on ramp. It is prudent to allow market forces to ultimately determine how the western highway service centre is delivered.

The planning proposal can be viewed in the attachment (Planning Proposal).

## BACKGROUND

### Subject Land

The subject site is located approximately five kilometres south of the Kempsey CBD. This locality is characterised by fragmented rural land on the western side of the highway and its proximity to road infrastructure and a highway service centre (on the eastern side of the highway), which services the South Kempsey interchange (refer Figure 1 below).

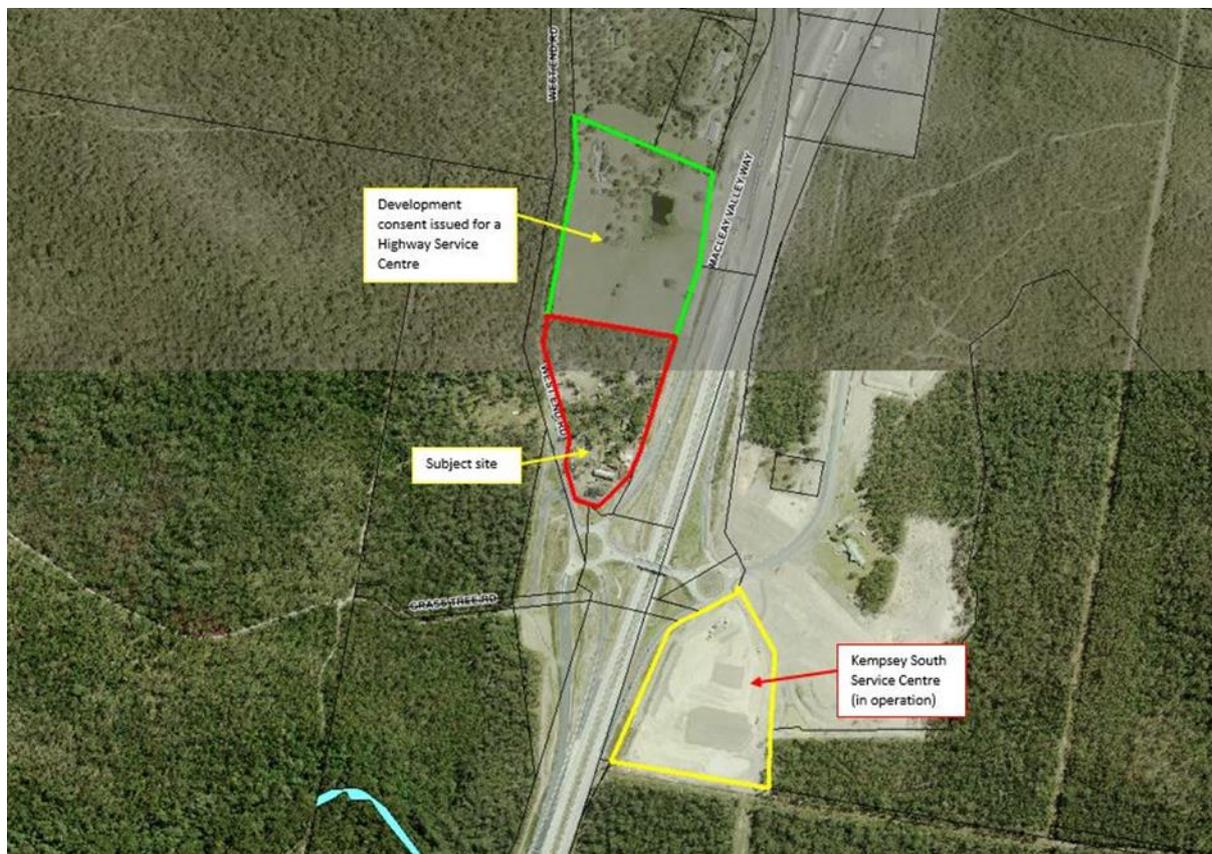


Figure 1: Subject site (within red border) located south west of Kempsey and its proximity to an approved highway service centre (green border) and an operating highway service centre (yellow border)

The subject site comprises an irregular shaped lot with an area of approximately 3.92ha. The site has dual road frontage to West End Road on the western boundary and Macleay Valley Way on the eastern boundary. The site's northern boundary adjoins 556 Macleay Valley Way on which development consent for a highway service centre was approved on 9 January 2015. At the time of this report, site works had not commenced for the highway service centre on that property.

The subject site drops-away to the north and comprises a collection of sheds and equipment storage areas at the southern end of the site with increasing tree cover toward the northern boundary of the site. The site is currently accessed from Macleay Valley Way.

### Objectives of the Planning Proposal

The intended outcome of the planning proposal is to permit (with development consent) the land use *Highway Service Centre* at the subject site.

This will provide an alternative opportunity to secure a second highway service centre at the South Kempsey interchange, by making the necessary amendments to KLEP 2013 to enable consideration of a future development application for a highway service centre at the subject site. An indicative representation of a future highway service centre at the site has been provided by the proponent (see Figure 2 below).



Figure 2: Indicative future highway service centre layout for the subject site.

### Proposed Amendments to the Kempsey Local Environmental Plan (KLEP) 2013

The site is entirely within the RU2-Rural Landscape zone. KLEP 2013 identifies that the land use *highway service centre* is prohibited in this zone.

*Highway service centre* is defined in the KLEP 2013 as:

***highway service centre*** means a building or place used to provide refreshments and vehicle services to highway users. It may include any one or more of the following:

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) service stations and facilities for emergency vehicle towing and repairs,
- (d) parking for vehicles,
- (e) rest areas and public amenities.

Clause 2.5 of the KLEP 2013 provides for additional permitted uses at a specified site(s) which may be contrary to the provisions of KLEP 2013 (with or without consent):

### **2.5 Additional permitted uses for particular land**

- 1) *Development on particular land that is described or referred to in Schedule 1 may be carried out:*
  - a. *with development consent, or*
  - b. *if the Schedule so provides—without development consent, in accordance with the conditions (if any) specified in that Schedule in relation to that development.*
- 2) *This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.*

556 Macleay Valley Way, the site immediately to the north of the subject site (refer Figure 3 below), has the following additional permitted use identified in Schedule 1 of the KLEP 2013 (and development consent for a highway service centre was subsequently approved 9 January 2015):

### **6 Use of certain land at Pacific Highway, South Kempsey**

- 1) *This clause applies to land at Pacific Highway, South Kempsey, being Lot 2454, DP 610363, and identified as “Item 6” on the Additional Permitted Uses Map.*
- 2) *Development for the purpose of a highway service centre is permitted with development consent.*

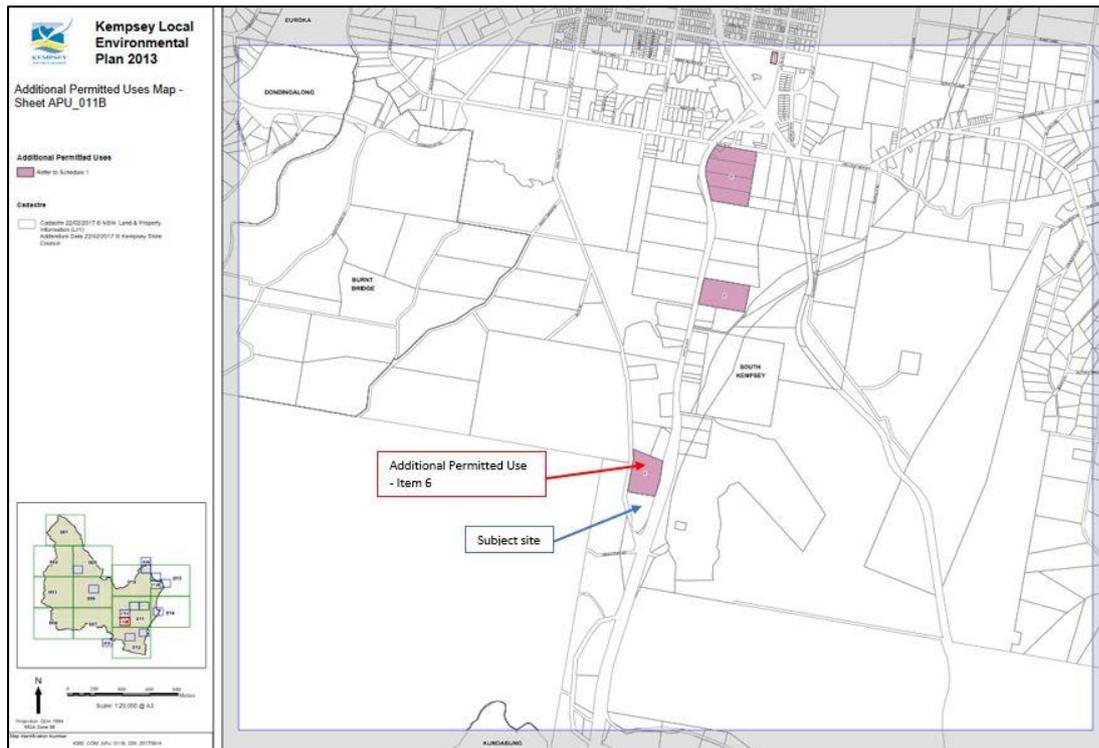


Figure 2: KLEP 2013 Additional Permitted Uses Map – Sheet APU\_011B with subject site and adjoining additional permitted use - item 6 identified

It is proposed that the following amendments be made to KLEP 2013:

- Add the subject site to *Schedule 1 Additional permitted uses* with the effect that development for the purpose of a highway service centre is permitted with development consent; and
- Add the subject site to the Additional Permitted Uses Map – Sheet APU\_011B.

### Justification for the Planning Proposal

The planning proposal will provide an alternative opportunity to secure an operational second highway service centre at the South Kempsey interchange. A highway service centre at the South Kempsey interchange is an identified outcome in the *North Coast Regional Plan 2036* (Direction 9 and Action 9.3) and the intent of Section 117 Local Planning Direction 5.4 – *Commercial and Retail Development along the Pacific Highway, North Coast*.

The subject site is well suited to a highway service centre land use in terms of its proximity to the South Kempsey interchange, access opportunities via its dual road frontages and the limited site constraints for this land use type.

The proposal satisfies the relevant legislation, planning instruments, strategies, SEPPs and section 117 Directions. The relevant SEPPs and section 117 Directions are assessed in detail in the attachment (Consistency with SEPPs and S117 Directions).

### Community Consultation

Should the Minister for Planning issue a favourable Gateway determination, the next step will include undertaking community consultation in accordance with the conditions of the Gateway

determination and Council's Rezoning Policy and Procedure 1.1.9. Part of this process will be to consult with the relevant Government authorities.

Once community consultation is complete, the matter will be reported back to Council to consider any submissions received and whether to proceed to the making of amending the local environmental plan.

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