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## Planning Proposal

Final Version

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## Introduction

This Planning Proposal Report explains the intended effect of, and justification for, the Planning Proposal to amend Kempsey Local Environmental Plan 2013. It has been prepared in accordance with Section 55 of the Environmental Planning and Assessment Act 1979 and the relevant Department of Planning and Environment guides, including the updated '*A Guide to Preparing Planning Proposals*' and '*A Guide to Preparing Local Environmental Plans*'. The report comprises of the following sections:

- Introduction
- Background and summary details of the proposal.
- Part 1 - A Statement of Objectives or Intended Outcomes of the proposal.
- Part 2 - Explanation of the Provisions that are to be included in the proposal.
- Part 3 - Justification of the Objectives, Outcomes and Provisions, and the process for their implementation.
- Part 4 - Mapping.
- Part 5 - Details of the Community Consultation that is to be undertaken in relation to the planning proposal.
- Part 6 - Project Timeline.
- Conclusion.

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## Background

KDC Pty Ltd (KDC) acts on behalf of its client Spectrum Retail Group in preparing this Planning Proposal for submission to Kempsey Shire Council (Council) in relation to land at 600 Macleay Valley Way, South Kempsey, (the Site); legally described as Lot 200 in DP1177619.

The Site is situated to the north of the South Kempsey Interchange of the Pacific Highway which features on and off ramps and an overpass. The Site's primary vehicle access point is via Macleay Valley Way, with West End Road providing additional access on the western boundary of the Site. Figure 1 illustrates the Site and its immediate surroundings. The Site has an area of approximately 39,185m<sup>2</sup>. The southern portion of the site supports equipment storage infrastructure, with the remainder of the site generally vegetated. The Site is mapped on the Kempsey Comprehensive Koala Plan of Management as containing class B vegetation and is identified as bushfire prone land (refer to the figures within Appendix A).

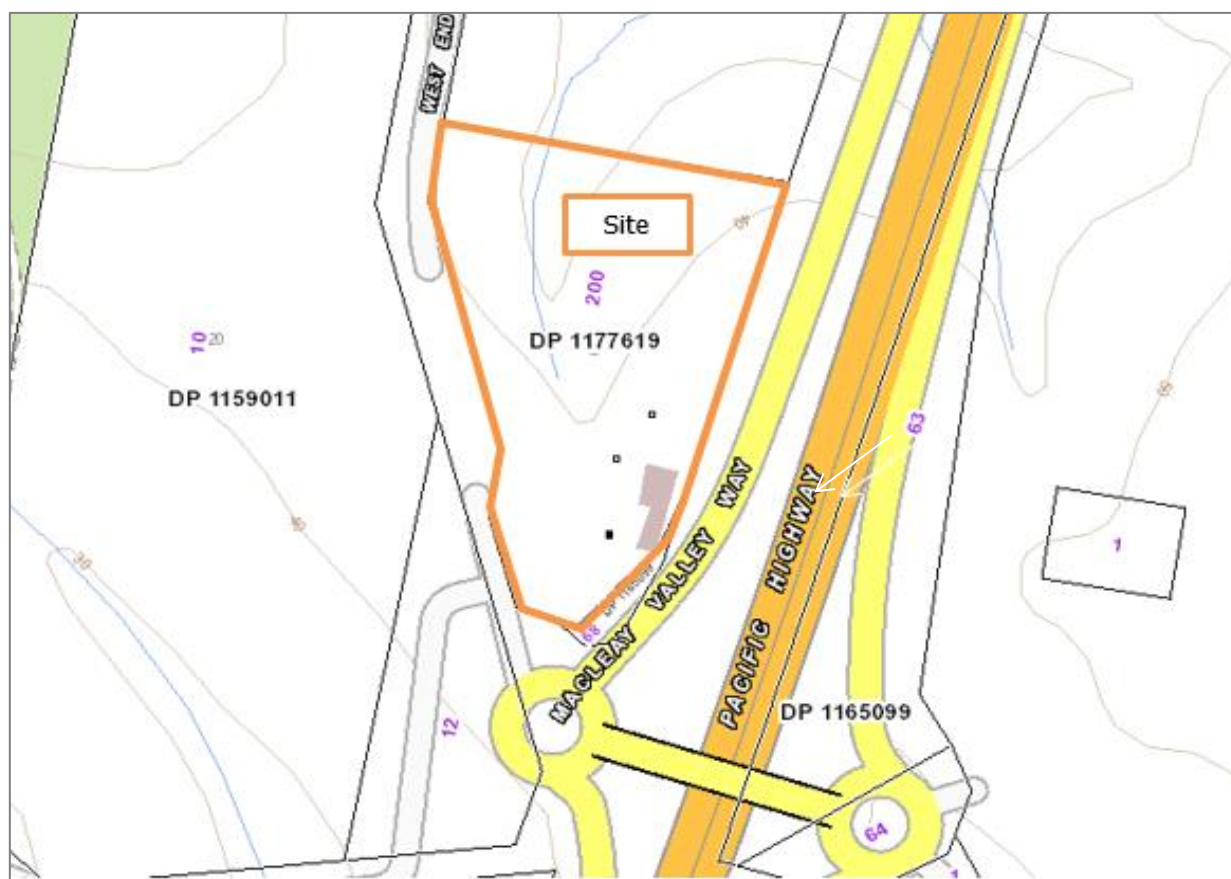
Under Kempsey LEP 2013 a highway service centre is permissible on the adjoining property to the north of the Site, subject to consent. That property has yet to be developed for such purposes and is not the prime location for a highway service centre given the design of the South Kempsey Interchange infrastructure. In comparison, the Site benefits from a prominent and highly accessible corner location, being the first property accessible from the off-ramp and with potential access direct from the Interchange roundabout. The permissibility of a highway service centre on a second alternate site will not have a detrimental economic impact for the public. The provision of a highway service centre has the potential to bring many economic benefits including local employment for the community, and this form of development has yet to be developed despite the South Kempsey Interchange being identified in Strategic planning documents as a suitable location.

A formal Pre-Lodgment meeting was held at Kempsey Council with Council's Strategic Planning staff on 1<sup>st</sup> June 2017 to discuss the intention to lodge a Planning Proposal for the Site and obtain the Council's advice in relation to the most appropriate means of achieving the desired outcome. Overall, the Planner was supportive of the proposal and intent for the site, particularly given the strategic merit of the Site for the intended purpose. The Department of Planning and RMS were also consulted with initial advice provided and no objections raised. Further contact has been made since that meeting between KDC and Council Planning staff in September 2017 in relation to the requirements for lodgment of the Planning Proposal.

**Figure 1 – Aerial View of Site**



Figure 2 – Cadastral Map



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## Part 1 - Objectives or Intended Outcomes

The objective of this Planning Proposal is to permit a *highway service centre* on the Site.

Under Kempsey Local Environmental Plan (LEP) 2013 a *highway service centre* is defined as:

*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.*

The Site is within the RU2 Rural Landscape zone, in which a *highway service centre* is prohibited. The RU2 zone prohibits (amongst other uses) service stations, takeaway food and drink premises, cafes and public amenities. All of these elements are potential components of a *highway service centre*.

An amendment to the Kempsey LEP 2013 is therefore required in order to permit the use of the Site for the purposes of a *highway service centre*.

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## Part 2 - Explanation of the Provisions

The proposed outcome will be achieved by:

- Amendment to Schedule 1 – *Additional Permitted Uses* of Kempsey LEP 2013, specifically listing “*highway service centre*” as permitted with consent on the Site; and
- Amendment to the “Additional Permitted Uses” Map (APU\_11B) of Kempsey LEP 2013 to include the Site, as shown in Figure 4 (refer to Part 4 Mapping).

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## Part 3 - Justification

### Section A - Need for the Planning Proposal

#### **Q1. Is the planning proposal a result of any strategic study or report?**

The North Coast Regional Plan (NCRP) 2036 addresses highway service centres and in particular, it acknowledges the need for well-located highway service centres to maintain the safety and strengthen transport corridors along the Pacific Highway (p36). The NCRP identifies that highway service centres may be located beside the Pacific Highway at Kempsey, in addition to a range of other locations along the highway (p37).

Further strategic guidance on highway service centres is provided by way of the relevant Section 117 Direction 5.4 which relates to commercial and retail development along the Pacific Highway, North Coast. It confirms that *highway service centres* may be permitted at localities listed in Table 1 to the Direction, including the South Kempsey Interchange.

A key element is the ability to safely and efficiently integrate the centre into the Interchange to the satisfaction of the Roads and Maritime Service. The location of the Site in relation to the Interchange design makes it a prime location for a *highway service centre*.

#### **Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

The Site exhibits good characteristics for a highway service station and this has been recognised in a strategic regional context. It is considered that a *highway service centre* would represent a most suitable use of the Site given its context, setting and access; and would achieve the benefits of a transport orientated property.

The traffic volumes, access, parking availability, exposure to road noise and traffic volumes, the size and dimensions of the Site, natural environmental characteristics and strategic location along the Pacific Highway were all considered when analysing the development potential of the Site.

KDC has undertaken consultation with the Strategic Planning staff from Council and it was agreed that the intended outcome for the Site would be most appropriately achieved by amendment to Schedule 1 – *Additional Permitted Uses*, listing *highway service centre* as permissible on the Site.

An amendment to the Schedule of Additional Permitted Uses is therefore seen to be the most effective means of achieving the intended outcome. This will also require an amendment to the Kempsey LEP 2013 Additional Permitted Uses Map to include the Site.

## Section B - Relationship to Strategic Planning Framework

### Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

#### NSW: Making It Happen

*NSW: Making it Happen* was released by the Premier for NSW on 14 September 2015 and replaces the State's previous 10-year plan NSW 2021. *NSW: Making it Happen* outlines 30 key reforms for the State, including 12 personal priorities for the Premier.

The Premier's priorities include:

<ul style="list-style-type: none"> <li>• Creating jobs</li> </ul>	<ul style="list-style-type: none"> <li>• Delivering infrastructure</li> </ul>
<ul style="list-style-type: none"> <li>• Reducing domestic violence Improving service levels in hospitals</li> </ul>	<ul style="list-style-type: none"> <li>• Improving service levels in hospitals</li> </ul>
<ul style="list-style-type: none"> <li>• Tackling childhood obesity</li> </ul>	<ul style="list-style-type: none"> <li>• Improving education results</li> </ul>
<ul style="list-style-type: none"> <li>• Protecting our kids</li> </ul>	<ul style="list-style-type: none"> <li>• Reducing youth homelessness</li> </ul>
<ul style="list-style-type: none"> <li>• Driving public sector diversity</li> </ul>	<ul style="list-style-type: none"> <li>• Keeping our environment clean</li> </ul>
<ul style="list-style-type: none"> <li>• Making housing more affordable</li> </ul>	<ul style="list-style-type: none"> <li>• Improving government services</li> </ul>

The State Priorities include:

<ul style="list-style-type: none"> <li>• Making it easier to start a business</li> </ul>	<ul style="list-style-type: none"> <li>• Encouraging business investment</li> </ul>
<ul style="list-style-type: none"> <li>• Boosting apprenticeships</li> </ul>	<ul style="list-style-type: none"> <li>• Accelerating major project assessment</li> </ul>
<ul style="list-style-type: none"> <li>• Increasing housing supply</li> </ul>	<ul style="list-style-type: none"> <li>• Protecting our credit rating</li> </ul>
<ul style="list-style-type: none"> <li>• Delivering strong budgets</li> </ul>	<ul style="list-style-type: none"> <li>• Improving Aboriginal education outcomes</li> </ul>
<ul style="list-style-type: none"> <li>• Transitioning to the National Disability Insurance Scheme</li> </ul>	<ul style="list-style-type: none"> <li>• Better government digital services</li> </ul>
<ul style="list-style-type: none"> <li>• Cutting waiting times for planned surgeries</li> </ul>	<ul style="list-style-type: none"> <li>• Increasing cultural participation</li> </ul>
<ul style="list-style-type: none"> <li>• Ensure on-time running for public transport</li> </ul>	<ul style="list-style-type: none"> <li>• Creating sustainable social housing</li> </ul>
<ul style="list-style-type: none"> <li>• Improving road travel reliability</li> </ul>	<ul style="list-style-type: none"> <li>• Reducing violent crime</li> </ul>
<ul style="list-style-type: none"> <li>• Reducing adult re-offending</li> </ul>	<ul style="list-style-type: none"> <li>• Reducing road fatalities</li> </ul>

It is considered that this Planning Proposal is consistent with the *NSW: Making it Happen* job creation priority, as it will provide additional employment opportunities in the locality. The intended outcome will also encourage business investment by enabling the construction and subsequent operation of a *highway service centre* with components of food premises and service station, which will provide sought after services for travelers that are currently lacking in the area.

#### North Coast Regional Plan 2036

The North Coast Regional Plan 2036 is the NSW Government's 20-year blueprint for the North Coast Region. It provides direction for the North Coats Region's productivity, environmental management, and livability; and provides guidance for the location of housing, employment, infrastructure, and open space. Kempsey has been identified a major town and is well placed to secure future housing and urban renewal opportunities.



The strategy identifies four regionally focused goals for the North Coast, being:

- *The most stunning environment in NSW*
- *A thriving, interconnected economy*
- *Vibrant and engaged communities*
- *Great housing choice and Lifestyle option*

This Planning Proposal is generally consistent with the intent of the Regional Plan. The proposals consistency with the relevant goals and directions of the Regional Plan is discussed in the following pages.

Direction	Actions	Planning Proposal's Response
<b>Direction 1: Deliver environmentally sustainable growth</b>  <i>The North Coast is known for its diverse rural and coastal landscapes and world-class natural environment. The focus for the future is to manage growth to protect the conservation and economic value of these important assets so that the region remains a great place to live and work.</i>	<p>2.1 Focus development to areas of least biodiversity sensitivity in the region and implement the 'avoid, minimise, offset' hierarchy to biodiversity, including areas of high environmental value.</p> <p>2.2 Ensure local plans manage marine environments, water catchment areas and groundwater sources to avoid potential development impacts.</p> <p>3.1 Reduce the risk from natural hazards, including the projected effects of climate change, by identifying, avoiding and managing vulnerable areas and hazards.</p>	<p>This Planning Proposal is consistent with this Goal as it has due regard for the environmental qualities and attributes of the Site, to demonstrate that the intended outcome is capable of being achieved on site without compromising the environmental values of the site. The protection of koala habitat and overall biodiversity conservation considerations are discussed later in this report.</p>
<b>Direction 5: Strengthen communities of interest and cross-regional relationships</b>	<p>5.1 Collaborate on regional and intra-regional housing and employment land delivery, and industry development.</p> <p>5.4 Prepare a regional economic development strategy that drives economic growth opportunities by identifying key enabling infrastructure and other policy interventions to unlock growth.</p>	<p>This direction aims to enable the delivery of key infrastructure to unlock opportunities for future economic and employment growth. This Planning Proposal seeks to allow the delivery of necessary services in a well-suited highway location for travelers.</p>

<p><i>The North Coast has growing and dynamic relationships across local government and state boundaries. These relationships are building broader communities of interest based on unique social and economic linkages, and are creating a more vibrant and diverse economy.</i></p>		
<p><b>Direction 6: Develop successful centres of employment</b></p> <p><i>The North Coast has the foundations for a thriving economy. It has strong cities and centres with distinctive character, developing inter-regional and cross-border links, growing farming and tourism sectors, high-quality infrastructure and a unique environment. Leveraging these assets will grow jobs and the economy over the longer term.</i></p>	<p>6.1 Facilitate economic activity around industry anchors such as health, education and airport facilities by considering new infrastructure needs and introducing planning controls that encourage clusters of related activity</p> <p>6.2 Promote knowledge industries by applying flexible planning controls, providing business park development opportunities and identifying opportunities for start-up industries.</p>	<p>This direction aims to facilitate economic activity within the North Coast region. This Planning Proposal is consistent with this direction as it will enable the development of a commercial (food and drink) premises and service station operation on the Site that will contribute to the economic growth of the area.</p>
<p><b>Direction 7: Coordinate the growth of regional cities</b></p>	<p>7.1 Prepare action plans for regional cities that:</p> <ul style="list-style-type: none"> <li>• ensure planning provisions promote employment growth and greater housing diversity;</li> <li>• deliver infrastructure and coordinate the most appropriate staging and sequencing of development.</li> </ul>	<p>This direction aims to prepare action plans for regional cities that ensure planning provisions promote employment growth and new job opportunities. This Planning Proposal is consistent with this direction as it will provide future employment opportunities to the local community.</p>

<p><i>The region's cities are popular places to live and work. Over three-quarters of future population growth is projected to occur in the Port Macquarie-Hastings, Coffs Harbour, Lismore and Tweed local government areas</i></p>		
<p><b>Direction 9: Strengthen regionally significant transport corridors</b></p> <p><i>The region benefits from regional infrastructure corridors that provide businesses with good access to South East Queensland and international markets, and residents with easier movement around the region.</i></p>	<p>9.1 Enhance the competitive value of the region by encouraging business and employment activities that leverage major inter-regional transport connections, such as the Pacific Highway, to South East Queensland and the Hunter.</p>	<p>This direction aims to facilitate the competitive value of the region by encouraging business and employment activities. The Planning Proposal is consistent with this direction as it will provide future employment opportunities.</p>

#### North Coast Regional Plan 2036

The North Coast Regional Plan 2036 addresses highway service centres under Direction 9: strengthen regionally significant transport corridors (p. 36-37). In particular it acknowledges the need for appropriate located highway service centres to improve and maintain safety along the Pacific Highway (p36). On Page 37, it identifies that highway service centres may be located in locations besides the Pacific Highway at Kempsey, in addition to a range of other locations along the highway.

It is considered that this Planning Proposal is consistent with the North Coast Regional Plan, as it proposes the construction and subsequent operation of a highway service centre on a key site adjoining the Pacific Highway. The North Coast Regional Plan identifies and acknowledges the need for a highway service centre in this location as proposed by the Planning Proposal.

#### **Q4. Is the planning proposal consistent with a Council's local strategy or other local strategic plan?**

The land is within the Kempsey Local Government Area (LGA), for which there is a Local Community Plan which is discussed in the following pages.

#### Kempsey Township Local Community Plan 2010

The proposal has been reviewed against the Local Community Plan 2010 for Kempsey Township. The plan identifies Kempsey as being located on a key transport link between Brisbane and Sydney. The approaches to

South Kempsey were considered a negative aspect of the town. Other negative aspects included a lack of promotion of Kempsey. Initiatives sought included, relevantly, "investigation of 6 the provision of a transport hub for trucks as part of the service centre linked with the bypass" (p15). Investigation into this has been identified as a high priority in the Plan (p 28).

The proposal is consistent with the Local Community Plan in that it would facilitate a truck stop in association with the proposed *highway service centre*. The proposal would need to present well, as part of the gateway to South Kempsey however this would be able to be addressed through appropriate architectural design and landscaping. The provision of an information facility would assist in the promotion of Kempsey, particularly for people who might otherwise bypass the town.

#### Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

An assessment of this Planning Proposal against all current SEPPs is provided in the following table:

**Table 1– Consistency with State Environmental Planning Policies**

SEPP	Relevance	Consistency and Implications
<b>SEPP No 1 – Development Standards</b>	Does not apply.	Clause 4.6 under the Kempsey LEP2013 applies at the development application stage.
<b>SEPP No 14 – Coastal Wetlands</b>	Does not apply.	No SEPP 14 wetlands within the prescribed distance.
<b>SEPP No 19 – Bushland in Urban Areas</b>	Does not apply.	This SEPP does not apply to the Kempsey Local Government Area.
<b>SEPP No 21 – Caravan Parks</b>	Does not apply.	The Planning Proposal is not seeking to draw from the provisions of this SEPP.
<b>SEPP 26 – Littoral Rainforests</b>	Does not apply.	This Planning Proposal does not contain littoral rainforest land or land within 100m of a SEPP 14 coastal wetland to which this SEPP applies.
<b>SEPP 30 – Intensive Agriculture</b>	Does not apply.	This Planning Proposal does not affect or propose intensive agriculture.
<b>SEPP 33 – Hazardous &amp; Offensive Development</b>	Applies.	Consistent. A future development application for a service station on the Site must include a preliminary assessment of potential hazard and demonstrate compliance with this Policy. Given the large site area available and the Site being bound by road on two frontages the Site is capable of supporting a service station with suitable separation distances and management procedures in accordance with this Policy.
<b>SEPP 36 – Manufactured Home Estates</b>	Does not apply.	This Planning Proposal is not seeking to draw from the provisions of this SEPP.
<b>SEPP 44 – Koala Habitat Protection</b>	Applies.	Consistent. The site is located within the Comprehensive Koala Plan of Management Area of Kempsey LGA. The Site appears to be mapped as class B vegetation (refer to Appendix A). However, the site does not contain any land mapped as "preferred habitat", "core habitat" or "unknown". A Preliminary Ecological Assessment has been undertaken and full ecological assessment including surveys will be undertaken following Gateway determination.

		<p>Considering the presence of potential Koala Feed Trees on the Site and the watercourse evident to the north, retention of vegetation within this portion of the Site may be necessary to meet impact mitigation efforts under legislative instruments, as well as addressing required 'avoid and minimise' steps under the BAM as discussed in the Ecological Assessment attached at Appendix B.</p> <p>Although at a preliminary stage, it is considered appropriate to conclude that approvals are achievable under the relevant environmental policies if proposed retention of the northern areas of vegetation is implemented. Notwithstanding, any Koala habitat removed from the Site will be incorporated as part of offset requirements in accordance with <i>Biodiversity Conservation Act 2016</i> (BCA).</p>
<b>SEPP 47 – Moore Park Showground</b>	Does not apply.	This SEPP does not apply to the Kempsey Local Government Area.
<b>SEPP 50 – Canal Estate Development</b>	Does not apply.	This Planning Proposal does not apply to land that can be defined as Canal Estate.
<b>SEPP 52 – Farm Dams and Other Works in Land and Water Management Plan Areas</b>	Does not apply.	The Site is not within an irrigation area/district listed in Schedule 1.
<b>SEPP 55 – Remediation of Land</b>	Applies.	<p>Consistent.</p> <p>The previous uses of the site over time are not likely to hinder the intended outcome of this Planning Proposal. Preliminary contamination investigations have been undertaken to identify the contamination status of the site. The Phase 1 Environmental Site Assessment is attached at Appendix E.</p> <p>The report concludes that the site can be made suitable for the proposed use as a highway service centre subject to the implementation of detailed investigations and remedial plan if necessary. The report also concludes it would be appropriate for these stages to be addressed at DA stage.</p>
<b>SEPP 62 – Sustainable Aquaculture</b>	Does not apply.	This Planning Proposal does not relate to development for land to which this SEPP applies.
<b>SEPP 64 – Advertising and Signage</b>	Does not apply.	This Planning Proposal does not involve advertising or signage. Any future signage on the Site shall be compatible with the desired amenity and visual character of an area and shall comply with the assessment criteria outlined in schedule 1 of the SEPP.
<b>SEPP 65 – Design of Quality of Residential Apartment Development</b>	Does not apply.	This SEPP applies to development defined as a residential flat building, which is not applicable to the intended outcome of this Planning Proposal.

<b>SEPP 70 – Affordable Housing Schemes (Revised Schemes)</b>	Does not apply.	This Planning Proposal does not affect land described in the SEPP.
<b>SEPP 71 – Coastal Protection</b>	Does not apply.	The site is not within the coastal zone as defined.
<b>SEPP (Affordable Rental Housing) 2009</b>	Does not apply.	This SEPP does not apply to this Planning Proposal.
<b>SEPP (BASIX) 2004</b>	Does not apply.	This SEPP does not apply to this Planning Proposal.
<b>SEPP (Educational Establishments and Child Care Facilities) 2017</b>	Does not apply.	This Planning Proposal has no impact on educational establishments.
<b>SEPP (Exempt and Complying Development Codes) 2008</b>	Applies.	Consistent. In accordance with this SEPP certain minor development may be undertaken as exempt or complying development. However, the intended permitted use requires lodgement of a Development Application.
<b>SEPP (Housing for Seniors or People with a Disability) 2004</b>	Does not apply.	This SEPP does not apply to this Planning Proposal.
<b>SEPP (Infrastructure) 2007</b>	Applies.	Consistent. This SEPP applies to significant types of infrastructure, which are listed in this SEPP and may apply at development application stage. The relevant clauses for future DA are capable of being complied with.
<b>SEPP (Kosciuszko National Park – Alpine Resorts) 2007</b>	Does not apply.	This Planning Proposal does not apply to development for land to which this SEPP applies.
<b>SEPP (Kurnell Peninsula) 1989</b>	Does not apply.	This Planning Proposal does not apply to development for land to which this SEPP applies.
<b>SEPP (Mining, Petroleum Production and Extractive Industries) 2007</b>	Does not apply.	This Planning Proposal does not relate to land that has been identified to have the potential to be used for mining, petroleum production or extractive industries.
<b>SEPP (Miscellaneous Consent Provisions) 2007</b>	Does not apply.	This Planning Proposal does not propose to use any of the provisions under this SEPP.
<b>SEPP (Penrith Lakes Scheme) 1989</b>	Does not apply.	This planning Proposal does not apply to development for land to which this SEPP applies.
<b>SEPP (Rural Lands) 2008</b>	Applies.	Consistent. The proposal would have little impact on agriculture, occupying a very small portion of land within the regional context. The zoning of the land, although in a rural zone, foreshadows investigation for non-rural uses. The proposal is consistent with the applicable Regional Strategy.
<b>SEPP State Significant Precincts 2005</b>	Does not apply.	This Planning Proposal is not affected by this SEPP.

<b>SEPP (State and Regional Development) 2011</b>	Does not apply.	This Planning Proposal is not defined as State or Regional Development for the purposes of this SEPP.
<b>SEPP (Sydney Drinking Water Catchment) 2011</b>	Does not apply.	This Planning Proposal does not apply to development for land to which this SEPP applies.
<b>SEPP (Sydney Region Growth Centres) 2006</b>	Does not apply.	This Planning Proposal does not apply to development for land to which this SEPP applies.
<b>SEPP (Three Ports) 2013</b>	Does not apply.	This Planning Proposal does not apply to development for land to which this SEPP applies.
<b>SEPP (Urban Renewal) 2010</b>	Does not apply.	This Planning Proposal does not apply to a potential precinct to which this SEPP applies.
<b>SEPP (Vegetation in Non-Rural Areas) 2017</b>	Does not apply.	This SEPP does not apply to land in rural zones.
<b>SEPP (Western Sydney Employment Area) 2009</b>	Does not apply.	This Planning Proposal does not apply to development for land to which this SEPP applies.
<b>SEPP (Western Sydney Parklands) 2009</b>	Does not apply.	This Planning Proposal does not apply to development for land to which this SEPP applies.

There are no Deemed SEPPs applicable or relevant to this Planning Proposal.

#### **Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?**

The Table 4 reviews the consistency with the applicable Ministerial Directions for LEPs under section 117 of the Environmental Planning and Assessment Act 1979.

**Table 2 – Consistency with Section 117 Directions**

<b>1. Employment and Resources</b>		
<b>Ministerial Directions</b>	<b>Application</b>	<b>Consistency and Implications</b>
<b>1.2 Rural Zones</b>	This direction applies when a proposal will affect land within an existing or proposed rural zone.	<b>Justified.</b> The site is within a Rural Zone and therefore this Direction applies. The Planning Proposal will not rezone rural land to a residential, business, industrial, village or tourist zone; and it does not propose to increase the permissible density of land within a rural zone. However, the effect of the Planning Proposal is such that the site will no longer be available for rural use. Whilst inconsistent with the Direction, this is acceptable given the location of the Site is identified as a strategic location for highway service centre at the South Kempsey Interchange (refer to Direction 5.4) and the proposal would have little impact on agriculture, occupying a very small portion of land within the regional context.
<b>1.5 Rural Lands</b>	This direction applies when the proposal will affect land within an existing or proposed rural or environment protection zone.	<b>Justified.</b> The Planning Proposal is not consistent with the Rural Planning Principles of <i>SEPP (Rural Lands) 2008</i> , however the inconsistency is justified given that the loss of this rural land for agricultural use is of minor significance; and the location of the Site is identified as a strategic location for highway service centre at the South Kempsey Interchange (refer to Direction 5.4).



<b>2. Environment and Heritage</b>		
<b>Ministerial Directions</b>	<b>Application</b>	<b>Consistency and Implications</b>
<b>2.1 Environment Protection Zones</b>	This direction applies to land in an environment protection zone or land otherwise identified for environment protection purposes.	<b>Consistent.</b> This Planning Proposal does not reduce the environmental protection standards that apply to the site and is therefore consistent with this direction.
<b>2.3 Heritage Conservation</b>	This Direction applies to a planning authority that prepares a proposal.	<b>Consistent.</b> The Planning Proposal does not affect items, places, buildings, works, relics or precincts of environmental heritage significance, and is therefore consistent with this direction.
<b>3. Housing, Infrastructure and Urban Development</b>		
<b>Ministerial Directions</b>	<b>Application</b>	<b>Consistency and Implications</b>
<b>3.4 Integrating Land Use and Transport</b>	This direction seeks to ensure that urban structures, building forms, etc. are consistent with the stated planning objectives.	<b>Consistent.</b> The Site is strategically located for the intended use and will not likely affect transport choices in the community. The proposal is suitable for the main road location of the Site and is not inconstant with the publications for improved transport choice and suitably locating business.
<b>4. Hazard and Risk</b>		
<b>Ministerial Directions</b>	<b>Application</b>	<b>Consistency and Implications</b>
<b>4.1 Acid Sulfate Soils (ASS)</b>	This Direction applies because the land has a probability of containing acid sulfate soils.	<b>Consistent.</b> The Site is identified in Kempsey LEP 2013 maps as having class 5 probability of ASS (refer to Appendix A). The intended outcome of this Planning Proposal can be suitably addressed with a future development application for the use and is manageable risk; therefore, the probability of ASS is considered of minor significance.
<b>4.4 Planning for Bushfire Protection</b>	This Direction applies as the land is identified as bushfire prone.	<b>Consistent.</b> The site contains bushfire vegetation (refer to Appendix A).  It is noted the Planning for Bushfire Protection (draft 2017) lists service stations as a "Hazardous Industry" which should not be proposed on Bushfire Prone Land (BPL). Notwithstanding, RFS have clarified that, although undesirable, any application for such would be treated on its merits (RFS pers.comm). The key to gaining consent for a hazardous industry development within BPL is meeting all the aims of the draft 2017 BPB.  A Preliminary Bushfire Assessment has also been undertaken for this Planning Proposal and is provided at Appendix F. The report concluded, despite the nature of the development being a "Hazardous Industry", the site design and setbacks from hazards are considered appropriate and



		<p>sufficient to meet the aims of the PBP as they apply to the proposal. Furthermore, the Site is expected to be connected to reticulated water supply, with numerous access / egress opportunities are available to provide options in regard to firefighting logistics.</p> <p>In accordance with this direction, the NSW RFS shall be consulted post-Gateway determination.</p> <p>Accordingly, the proposal is consistent with this direction.</p>
<b>5. Regional Planning</b>		
<b>Ministerial Directions</b>	<b>Application</b>	<b>Consistency and Implications</b>
<b>5.1 Implementation of Regional Strategies</b>	This Direction applies to land that is covered by a Regional Strategy.	<p><b>Consistent.</b></p> <p>The proposal is consistent with the North Coast Regional Plan 2036 and accordingly is consistent with this Direction.</p>
<b>5.4 Commercial and Retail Development along the Pacific Highway, North Coast</b>	This Direction applies to land in the vicinity of the Pacific Highway between Port Stephens and Tweed Shire.	<p><b>Consistent.</b></p> <p>The property is identified as being located along the Pacific highway South of Kempsey, in a key location associated with the South Kempsey Interchange. The proposal is consistent with this Direction, as it provides for a highway service centre in a location identified in the Direction.</p> <p>This Direction provides that <i>the establishment of highway service centres may be permitted at the localities listed in Table 1, which includes the "South Kempsey Interchange" provided that Roads and Maritime Services is satisfied that the highway service centre(s) can be safely and efficiently integrated into the Highway interchange(s) at those localities.</i></p> <p>The proposed highway service centre is suitably located at the interchange with safe and efficient access and is therefore consistent with this Direction. The RMS shall be consulted post-Gateway determination.</p>
<b>5.10 Implementation of Regional Plans</b>	This direction applies to land to which a Regional Plan has been released by the Minister for Planning.	<p><b>Consistent.</b></p> <p>The Planning Proposal is consistent with the North Coast Regional Plan. This is discussed further in the report.</p>
<b>6. Local Plan Making</b>		
<b>Ministerial Directions</b>	<b>Application</b>	<b>Consistency and Implications</b>
<b>6.1 Approval and Referral Requirements</b>	This direction applies to all planning proposals to minimise the need for concurrence, consultation or referral of development	<p><b>Consistent.</b></p> <p>The Planning Proposal and subsequent development application(s) relating to the Site will require minimal concurrence, consultation and referral to a minister or public authority; thus, allowing efficient and appropriate assessment of any development proposal.</p>

	applications to public authorities.	
<b>6.2 Reserving Land for Public Purposes</b>	This Direction applies to all planning proposals to reserve land for public purposes	<b>Consistent.</b> The Planning Proposal will not affect or reduce public land access as the site is privately owned.
<b>6.3 Site Specific Provisions</b>	This Direction applies when a relevant planning authority prepares a proposal to allow a specific use to be carried out.	<b>Consistent.</b> The Planning Proposal will allow a highway service centre on the site without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended. The insertion of "highway service centre" as an additional permitted use is consistent with this Direction. Furthermore, the Planning Proposal does not rely on specific drawings that show details of the development proposal.

## Section C - Environmental, Social and Economic Impact

### **Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

The current use of the land has been developed for the storage of waste metal scrap products. There is some remnant native vegetation on the Site. Regional vegetation mapping (GHD, 2007) shows the site contains:

- Dry Foothills Blackbutt- Turpentine Forest; and
- Cleared / disturbed areas

The remnant vegetation is generally disturbed across the Site. Vegetation in the downslope northern part of the Site was found to be in slightly better condition, some of which may be retained under the current proposal. The vegetation present does not appear to align with any listed Endangered Ecological Communities (EECs) within the TSC Act or the EPBC Act (Refer to the Ecological Report attached at Appendix B).

A preliminary Ecological Assessment was undertaken in respect of the Site (refer to Appendix B), where NSW OEH database searches revealed two threatened plant species - *Syzygium paniculata* (Magenta LillyPilly) and *Maundia triglochoides* recorded within the locality. It is unlikely that these species would have suitable habitat on the site, given neither occur in dry hilltop sclerophyll type forest found within the Site. Appropriate targeted surveys would need to be undertaken for these species (and any others) to clarify their status on site, however they are considered highly unlikely to occur given the absence of preferred habitat.

Regarding threatened fauna, as part of the preliminary Ecological Assessment (Appendix B), a search of the NSW OEH database revealed two amphibians, 16 bird and 14 mammal threatened species records within the locality, including the following records within adjacent lands <1km from the site since 1 December 1997:

- Square-tailed Kite (*Lophoictinia isura*) - (no date);
- Masked Owl (*Tyto novaehollandiae*) - (no date);
- Koala (*Phascolarctos cinereus*) - (2002, 2003 & 2014); and
- Little Bentwing Bat (*Miniopterus australis*) - (2002 (three records) & 2007).

No threatened fauna were recorded by incidental observation during the recent site inspection. However, seasonal and /or targeted searches were not performed, and despite the disturbed nature of much of the proposed development area, there is some potential for several of these species to utilise and/or reside within

the Site. The intact northern vegetated area would provide good habitat for several species, albeit it is “edge” habitat adjacent to cleared areas and roads. Overall, it is unlikely development on the Site would impact threatened species taking into account:

- The disturbed condition of the majority of the proposed development area;
- The location next to cleared areas and roads including a Highway;
- The Site does not appear to have wider landscape value as a key habitat connection;
- The presence of large areas of contiguous vegetation nearby, particularly to the west within Kalateenee State Forest, Maria State Forest to the south, and Maria National Park to the east;

The ecological assessment concludes that it is unlikely that the development of the Site would significantly impact threatened entities such that viable local populations would be placed at risk of extinction. The Site occupies a substantial land area and is considered capable of supporting a *highway service centre* development without disturbing ecologically valuable areas of the Site or having significant environmental impact.

It should also be acknowledged that the removal of vegetation from the Site will trigger an assessment in accordance with the Biodiversity Assessment Method (BAM), and subsequent Biodiversity Offsets Scheme would apply. The Ecological Assessment attached at Appendix B includes preliminary calculations undertaken to determine approximate credit requirements as applicable to the current proposal.

**Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

Contamination

Geo-Logix Pty Ltd (Geo-Logix) was engaged by Spectrum Retail Group Pty Ltd to conduct a Phase 1 Environmental Site Assessment (ESA) of the site. The ESA concluded there is potential for site contamination due to the historical use of the site as a salvage yard. These potential contaminants include hazardous building materials and the potential for land contamination from heavy metals and fuels, oils and greases from metal recycling equipment and from recyclable material.

Despite the potential for contamination, the ESA determined the site can be made suitable for the purpose of a *highway service centre* subject to more detailed investigations and implementation of a Remedial Action Plan (RAP) if required. It is also acknowledged the context of the site is amenable from a contamination perspective, as there are minimal sensitive land uses adjoining the site. As outline in the ESA, a highway service centre is a suitable land use for the site. Therefore, subject to the implementation of adequate mitigation measures, the use of the site as a *highway service centre* will not result in any adverse contamination impacts on the environment.

Natural Environment

The Site has been identified as containing scattered tree plantings while containing remnants of native vegetation. The intended outcome will allow a *highway service centre* to be developed on the Site. A development concept indicates the removal of all remaining native vegetation from the southern portion of the Site. As per the required process within the recently enacted *Biodiversity Conservation Act 2016* (BC Act), the proposal would trigger the vegetation clearing thresholds therein. This will necessitate application of the Biodiversity Assessment Methodology (BAM) and lead to the provision of mandatory biodiversity offsets.

Vegetation removal will require the provision of matching “Ecosystem Credits”, the number and type to be determined by detailed field survey, calculations and reporting. There may also be potential for some additional “Species Credits” to be provided, depending on results of field survey. As an example, Koala activity is known from the immediate area and if Site usage is evidenced then credits for Koalas will be required.

It is considered unlikely that the area proposed for development would be constrained from an “Avoid / Minimise” case of consequence given that the development maximises preferential usage of disturbed areas; nor is it likely to be constrained by matters invoking “Serious & Irreversible Impacts”.

Post- Gateway determination and during the DA stage, a detailed BAM report will be prepared by an Accredited Assessor under the new BAM requirements.

## Bushfire Hazard

The Site is mapped as containing bushfire Category 1 vegetation (refer to Appendix A). In accordance with Section 117 Ministerial Direction 4.4, consultation with the Commissioner of the NSW Rural Fire Service shall occur following receipt of a gateway determination and any comments so made are to be taken into account. Planning Proposals must:

- (a) *have regard to Planning for Bushfire Protection 2006,*
- (b) *introduce controls that avoid placing inappropriate developments in hazardous areas, and*
- (c) *ensure that bushfire hazard reduction is not prohibited within the APZ.*

A Preliminary Bushfire Assessment has been undertaken and is provided at Appendix F. The Assessment considers the Site attributes and makes recommendations as to the appropriate level of protection and APZ requirements, having regard for the current Planning for Bushfire Protection Guidelines as well as recognizing the updated Draft Guidelines.

The bushfire protection requirements shall be considered alongside the Ecological Assessment that is suggested to be undertaken post-Gateway determination, to identify the vegetation clearing, protection and replanting implications of this Planning Proposal.

## Amenity

The term 'amenity' relates to the qualities, characteristics and attributes people value about a place which contributes to their experience of a high quality of life. The spatial scale at which amenity can be defined also varies from across a city, a suburb, a neighbourhood, a street or even a specific site, with each level contributing to the identity of an area and providing a 'sense of place'.

The amenity attributes which people seek and appreciate often vary according to individuals' own values. Nevertheless, there are a number of general elements that contribute to amenity, including the physical landscape or streetscape; areas of vegetation and public and private open space for recreation, such as parks, reserves and gardens; urban design, including the scale and dominance of buildings; historic and cultural heritage; public views and outlooks; privacy; physical safety; and the accessibility of places.

Noise pollution can be defined as unwanted offensive noise that unreasonably intrudes on daily activities. In urban areas, noise pollution has many sources, most associated with urban development: road, rail and air transport; industrial noise; and neighbourhood and recreational noise. A number of factors contribute to problems of high noise levels including:

- increasing population, particularly where it involves greater urbanisation and urban consolidation; and
- increasing volumes of road, rail and air traffic.

The amenity of the Site surrounds is generally affected by traffic noise due to the proximity of the Pacific Highway. This noise affectation supports the intended outcome of this Planning Proposal, whereby the Site shall be capable of being developed for the purposes of a transport-related, commercial use. The intended outcome is suited to the location and will not likely impact the amenity of nearby properties.

## Heritage

The site is not listed as a heritage item, nor is it mapped within a heritage conservation area under the Kempsey LEP 2013. There are no listed heritage items within the locality.

A search using the NSW Aboriginal Heritage Information Management System (AHIMS) showed no Aboriginal site or places located in or near the site. The AHIMS search is enclosed at Appendix G.

## Q9. Has the planning proposal adequately addressed any social and economic effects?

Development of food and drink premises and service station as part of a highway service centre on the site is anticipated to have various ongoing positive social and economic impacts on the local Kempsey area and the broader Macleay Valley community. The identified positive impacts are summarised below:

- Future development will generate improved employment opportunities with flow on employment multipliers benefitting the local community;
- Development would be compliant with relevant disability standards, and will meet the needs of people with physical disabilities, sensory disabilities and intellectual disabilities;
- The operation would provide improved services to the area meeting the daily needs of surrounding residents, workers and tourists;
- Future development would result in economic benefits associated with the short-term construction works;
- Improved safety and security measures will be incorporated into the operational procedures of the development to ensure a safe and secure environment for patrons and staff; and
- The proposed use of the Site for these specific land uses would have a positive impact on the natural environment by enhancing and improving the amount of vegetation on the site.

Whilst a *highway service centre* is permissible on adjacent land, the development has not been realised.

The provision of a highway service centre has the potential to bring many economic benefits including local employment for the community, as identified above. Yet this form of development has yet to be developed despite the South Kempsey Interchange being identified in Strategic planning documents as a suitable location. The permissibility of a highway service centre on a second, alternate site will not have a detrimental economic impact for the public.

The current Planning Proposal acts on market demand for a *highway service centre* at the South Kempsey Interchange, consistent with the identified strategic locations for highway service centres. The Site is a prime location for a *highway service centre* given the location and design of the South Kempsey Interchange, including on and off ramps, roundabout design and overpass. The Site is considered a primary land holding for the development of a *highway service centre*.

It is suggested an Economic Impact Assessment be undertaken for this Planning Proposal following Gateway determination.

## Section D - State and Commonwealth Interests

### Q10. Is there adequate public infrastructure for the planning proposal?

Specific requirements for infrastructure servicing are yet to be determined. Depending upon the final servicing strategy the development may need to be self-sufficient with respect to water supply, and also wastewater disposal. It is suggested that service providers be consulted during the public exhibition of this Planning Proposal.

Access for the site would be obtained from the South Kempsey exit from the proposed bypass. Appropriate traffic management measures would be implemented in the design for the *highway service centre* on Site to ensure safe and efficient turning movements, access and road safety. A Preliminary Traffic Assessment has been undertaken for this Planning Proposal and finds the site suitable for a *highway service centre* from a traffic and access viewpoint (refer to Appendix C).

**Q11. What are the views of the State and Commonwealth public authorities consulted in accordance with the gateway determination?**

Preliminary consultation has taken place with Council and the RMS regarding this Planning Proposal. The advice from RMS has also been taken into account and responded to in the Preliminary Traffic Assessment (refer to Appendix C). Specifically, RMS and Council acknowledged the strategic merit of the Site, given it is located in a preferable location for a highway service centre compared to the alternative to the north.

It is suggested that the following public authorities be consulted during the public exhibition period:

- NSW Environment and Heritage;
- NSW Rural Fire Service
- NSW Roads and Maritime Service; and
- Service Providers including Energy Australia; and Council's Water Services Division.

## Part 4 - Mapping

Figure 3 is an extract from the current "Additional Permitted Uses" Map (APU\_011B) under Kempsey LEP 2013. Figure 4 is the recommended amendment to Map APU\_0011B in order to achieve the intended outcome of this Planning Proposal. This is the only intended Map Amendment for this Planning Proposal.

**Figure 3 - Existing Additional Permitted Uses Map Extract (APU\_011B)**



**Figure 4 - Proposed Amendment to Additional Permitted Uses Map (APU\_011B) to include the Site**





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## Part 5 - Community Consultation

As it is considered that this Planning Proposal is of low impact (in accordance with '*A guide to preparing local environmental plans*' published by the Department of Planning) it is proposed that the amendment to the Kempsey LEP 2013 be publicly exhibited for a 14-day period. The public exhibition would be notified through a local newspaper advertisement at the beginning of the 14-day period, Kempsey Council's website as well as in writing to affected and adjoining landowners.

Informal consultation was undertaken with Kempsey Shire Council planners Peter Orr and Georgia Rayner on the 1<sup>st</sup> of June 2017. The general scope of the Planning Proposal was discussed including the proposed Highway Service Centre located at 600 Macleay Valley Way, South Kempsey.

Consultation will also be held with relevant public authorities and agencies including the RMS, NSW Rural Fire Service and NSW Environment and Heritage, as well as relevant service providers.

Any future development would be subject to assessment of a Development Application which would also be advertised in accordance with the Environmental Planning and Assessment Act 1979 and Council's Notification Policy.

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## Part 6 - Project Timeline

The following table outlines the projected timeframes for this Planning Proposal.

**Table 3 – Project Timeline**

Part 6 - Project Timeline	
October 2017	Lodge Planning Proposal with Council
December 2017	Gateway Determination
February 2018	Anticipated timeframe for the completion of required technical information (subject to timing of targeted ecological surveys)
	Timeframe for government agency consultation (pre and post exhibition as determined by Gateway Determination)
March-April 2018	Public exhibition period.
4-6 weeks	Timeframe for consideration of submissions following exhibition
June 2018	Consideration of the final Planning Proposal by Council (Council meeting)
July 2018	Date of submission to the Department to finalise the LEP
August 2018	Anticipated date RPA will make the plan (if delegated); or Anticipated date will RPA will forward to the Department for notification.
August 2018	Anticipated gazettal.

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## Conclusion

This Planning Proposal seeks to amend Kempsey LEP 2013 to permit “*highway service centre*” at 600 Macleay Valley Way Kempsey NSW. The proposal will enable employment generating, commercial activity to occur on a Site that is accessible, well suited to the land use and situated within a growth area that is not yet provided with this land use opportunity; providing a much-needed service to the Kempsey community and motorists in the region into the future.

The proposal is consistent with relevant, adopted state and regional planning strategies, as well as the local Kempsey Community Plan. The intended outcome of this Planning Proposal is compatible with surrounding land uses, the built environment and infrastructure, and is capable of achieving the desired site outcomes including maintenance of scenic amenity, biodiversity conservation; and complying with applicable planning policies at development application stage.

Amending the Kempsey LEP 2013 as proposed will enable appropriate use of the Site for the benefit of the local community, and will generate short term (construction) and long-term employment opportunities, without any significant or ongoing adverse effects. Further, detailed assessments are suggested to be undertaken in relation to the economic impacts and ecological impacts of this Planning Proposal. It is reasonable that these assessments be undertaken post-Gateway Determination.

It is therefore requested that Council resolve to support this Planning Proposal seeking an amendment as detailed in Part 2 of this Planning Proposal and forward it to the Department of Planning and Environment for Gateway Determination.

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## Appendix A – Supporting Figures

Figure 5 - Kempsey LEP 2013 Map Extract: Land Zoning (LZN\_011B)

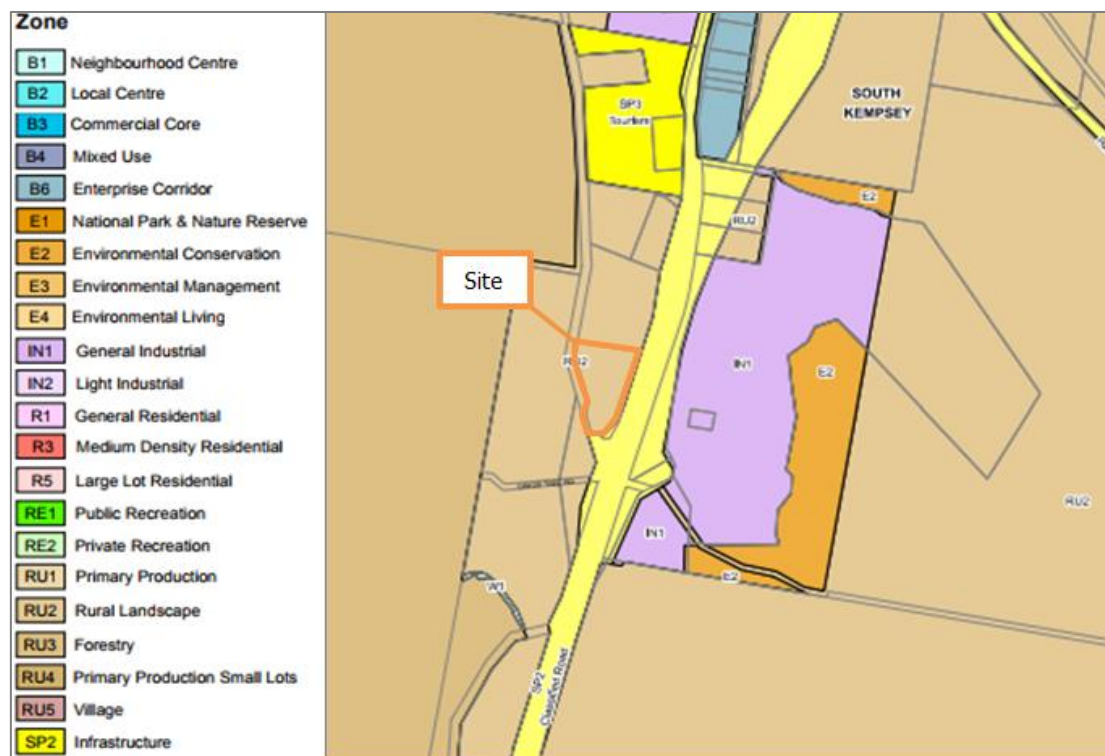


Figure 6 - Kempsey LEP 2013 Map Extract: Acid Sulfate Soils (ASS\_011B)

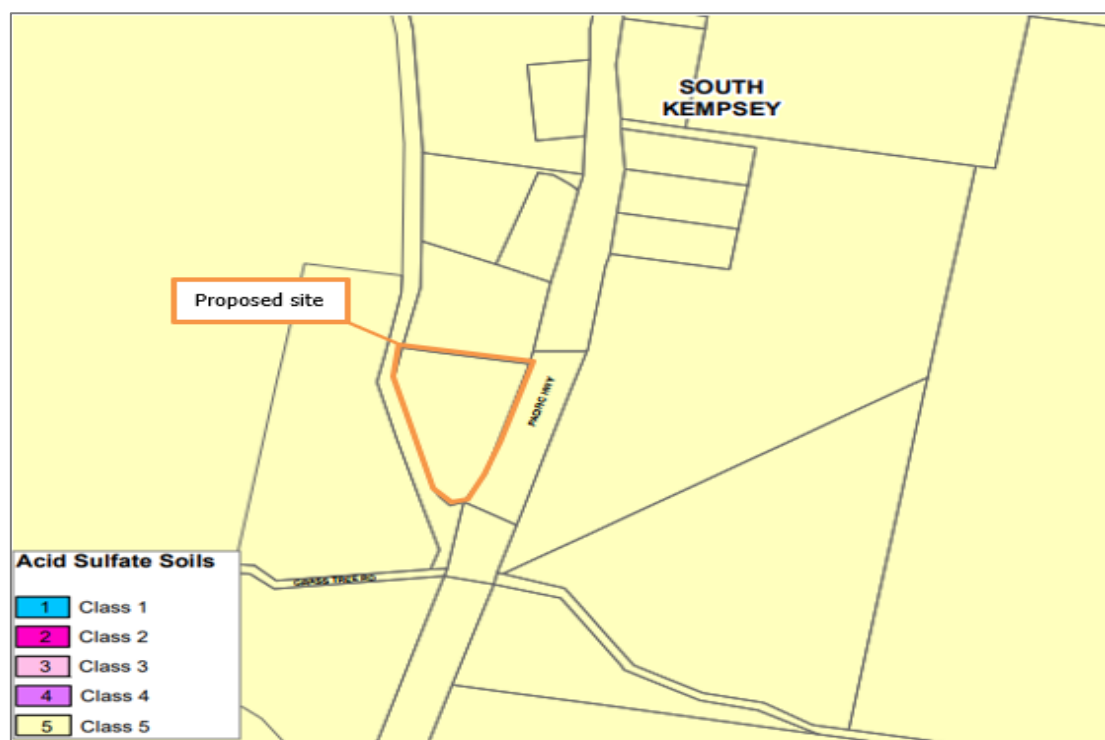




Figure 7 - Kempsey Bushfire Prone Land Map Extract

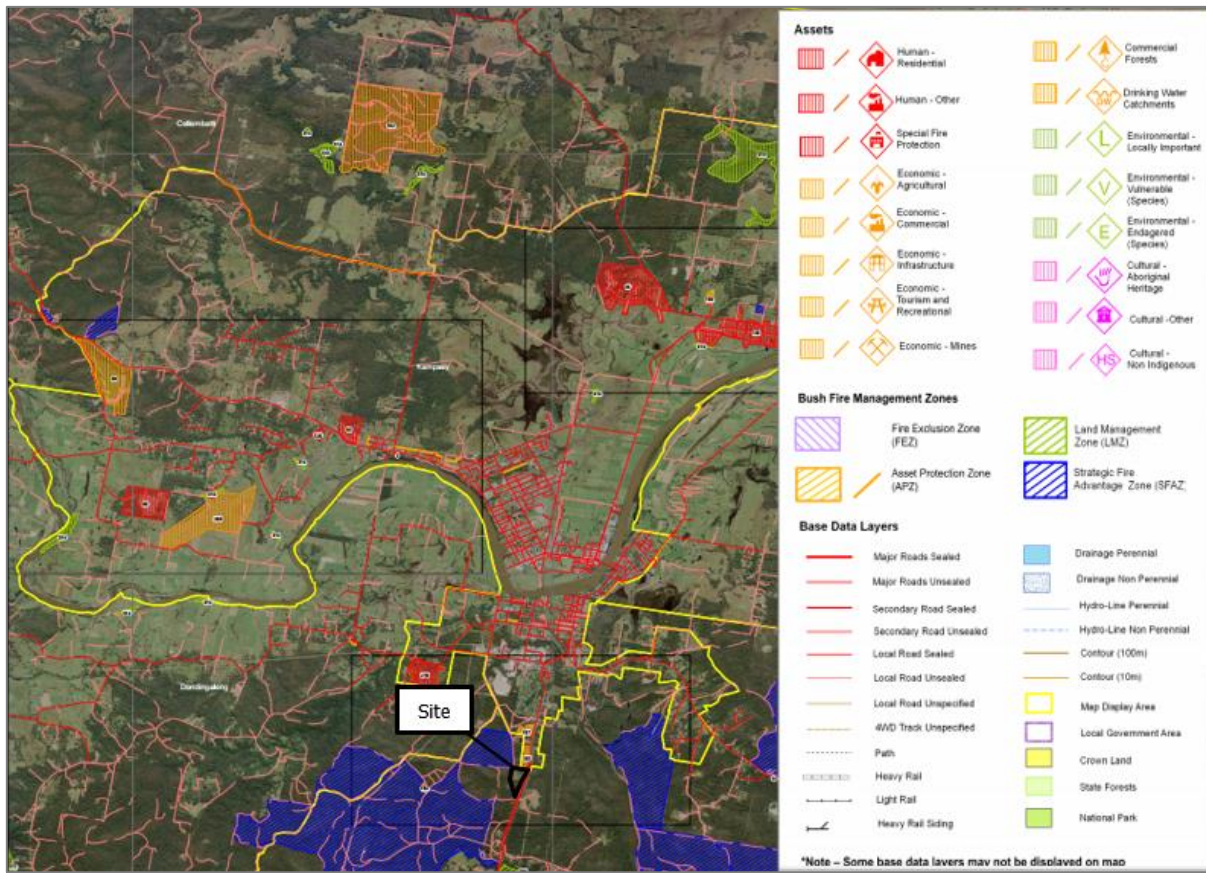
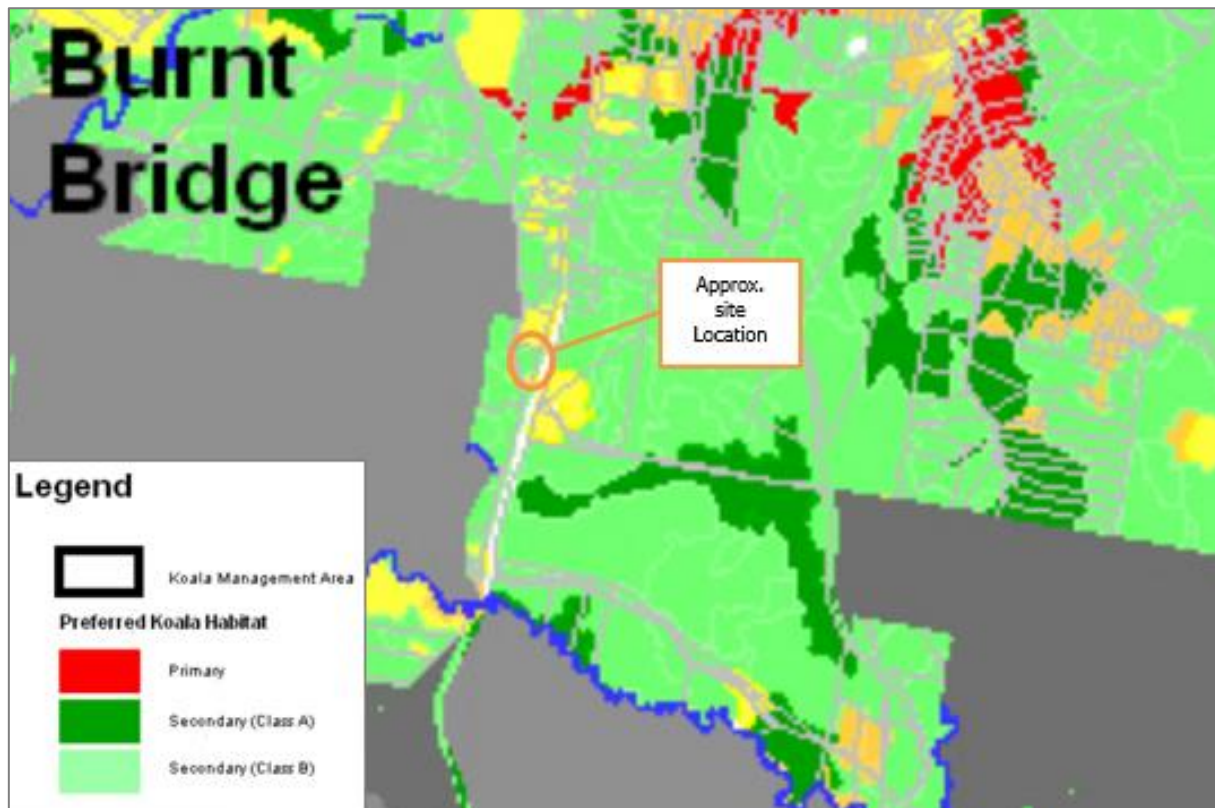


Figure 8 – Kempsey Koala Plan of Management Map Extract





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## Appendix B –Ecological Report

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## Appendix C – Preliminary Traffic Assessment

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## Appendix D – Concept Site Plan

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## Appendix E – Preliminary Environmental Site Assessment (Phase 1)

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## Appendix F – Bushfire Threat Assessment Report

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## Appendix G – AHIMS