PLANNING PROPOSAL

Part Lot 6 DP 818216 & Lot 1 DP 1111175 GOWINGS HILL ROAD DONDINGALONG

MR H LEBROQ

February 2017



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Gellough

Geraldine Haigh GEM Planning Projects Pty Ltd Date: ...February 2017...... Ref: 0053 LeBroq



1. INTRODUCTION

Proposal:	Rezone Part of land from RU1 Primary Production and RU2 Rural Landscape to R5 Large Lot Residential
Property Details:	Part Lot 6 DP 818216 & Lot 1 DP 1111175 Gowings Hill Road Dondingalong
Applicant & Owner:	Mr Hector Le Broq

2. SUBJECT SITE

The subject land is located at Gowings Hill Road, Dondingalong, approximately 4 km west of the Kempsey CBD. The area is characterized by rural and rural residential holdings.

This planning proposal is in response to the Kempsey Shire Rural Residential Land Release Strategy (dated December 2014) which identifies part of the land as potentially suitable for large lot residential purposes. Subsequent detailed survey and site assessments have identified additional land not mapped in the Strategy that is considered suitable for inclusion in the Planning Proposal.

The subject land has a total area of 49.8ha (Lot 6) and 2ha (Lot 1) with sealed road frontage to Gowings Hill Road. There are existing farm structures and dams on the property. The land is used for cattle grazing. The site has frontage to the Macleay River and near the road frontage rises to above the 1 in 100 year flood level and the nominated Flood Planning Level.

Figure 1 below shows the boundaries of both allotments and the approximately limit of the area subject to the Planning Proposal in the southern part of the land holding.





Figure 1





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Figure 2 Aerial of Locality









Pursuant to the provisions of Kempsey Local Environmental Plan 2013 Lot 6 is presently zoned RU1 Primary Production and Lot 1 is presently zoned RU2 Rural Landscape. A Planning Proposal is necessary to rezone the south part of the land to R5 Large Lot Residential.

The rezoning would facilitate subdivision of the land at the southern flood free extent of Lot 6 and all of Lot 1 into approximately 14 allotments, 1 ha or greater in area. Plan of a detailed survey by Peter Phillis & Associates are provided at *Appendix A* and include the whole site as well as additional detail of the southern area which is the subject of this Planning Proposal.

A subdivision concept plan provided at *Appendix A* demonstrates a potential outcome for the site, subject to a successful development application. Noting that concept Lot 15 is the residue rural land to be consolidated with the adjacent rural holding to the west.

Technical reports supporting the concepts in relation to bushfire and on site waste water are provided at *Appendix B*.

3. PLANNING PROPOSAL

3.1 PART 1: Objectives or Intended Outcomes

To rezone land at Gowings Hill Road, Dondingalong for Rural Residential purposes.

The intended outcome is a large lot residential subdivision utilising the flood free areas of the land for dwelling sites, retention of scattered trees and ensuring appropriate bushfire and water quality controls are achievable on the proposed lots.

3.2 PART 2: Explanation of Provisions

The desired future use of the site would be best served by the application of the R5 Large Lot Residential zone to Lot 6 DP 818216 & Lot 1 DP 1111175, Gowings Hill Road, Dondingalong.

An amendment to the Kempsey Local Environmental Plan 2013 is required to achieve the Large Lot Residential zoning over the identified southern part of the land. The zoning of the northern part of the land would remain unchanged.

The identified zoning for the Planning Proposal site as R5 is consistent with the zoning of land immediately to the east along Gowings Hill Road towards Euroka. The LEP maps relating to the adjacent land indicates a minimum lot size of 1ha and the same control is to proposed to be applied to the subject site by way of an amendment to the Lot Size Map – Sheets 11 & 11A.

The proposed zone provisions would enable the owners of the land to proceed with their vision for the land, subject to Kempsey Council's consideration of a suitable development application for subdivision.



The R5 Large Lot Residential zone is expressed in the Kempsey Local Environmental Plan 2013 as follows:

Zone R5 - Large Lot Residential

1 Objectives of zone

- To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.
- To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.
- To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

2 Permitted without consent

Environmental protection works; Home-based child care; Home occupations.

3 Permitted with consent

Dual occupancies (attached); Dwelling houses; Extensive agriculture; Farm stay accommodation; Group homes; Home industries; Horticulture; Neighbourhood shops; Roads; Roadside stalls; Viticulture; Any other development not specified in item 2 or 4.

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Boat building and repair facilities; Camping grounds; Car parks; Caravan parks; Commercial premises; Correctional centres; Crematoria; Dairies (pasturebased); Depots; Eco-tourist facilities; Emergency services facilities; Entertainment facilities; Exhibition homes; Exhibition villages; Forestry; Freight transport facilities; Function centres; Heavy industrial storage establishments; Helipads; Highway service centres; Industrial retail outlets; Industrial training facilities; Industries; Information and education facilities; Mortuaries; Passenger transport facilities; Public administration buildings; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Restricted premises; Rural industries; Service stations; Sex services premises; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Waste or resource management facilities; Wholesale supplies



3.3 PART 3: Justification

The Planning Proposal seeks to rezone land at Dondingalong to allow large lot residential development, consistent with the character of the area immediately east of the site. It is not entirely consistent with the mapped areas of the Land Release Strategy but does include land of similar characteristics and capacity.

Section A: Need for the Planning Proposal

3.3.1 Is the planning proposal a result of any strategic study or report?

The Planning Proposal is partly consistent with the Kempsey Local Growth Management Strategy (LGMS) Rural Residential Component and includes additional land of suitable character which is not identified in the Strategy. Council Policy 1.1.16 provides guidance when considering planning proposal for land not identified in the strategy and is discussed in Section B below.

Section B: Relationship to Strategic Planning Framework

3.3.3 Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

(i) Local Strategy

Rezoning of part of the subject land as proposed above is consistent with the Kempsey Shire Rural Residential Land Release Strategy (Rural Residential component). However, rezoning of the additional flood free land adjacent to the north is not consistent with the mapping in the strategy.

The purpose of the Kempsey Local Growth Management Strategy (LGMS) is to meet Council's obligations to manage population and housing growth, consistent with relevant regional policies.

Since publishing the Local Growth Management Strategy, the North Coast Regional Environmental Plan 2036 has been released and includes specific Interim Variation Criteria to address this type of situation.

Kempsey Shire Rural Residential Land Release Strategy dated December 2014 identified the southern part of this site for rural residential use and within Stage 1 implementation phase Kempsey Local Growth Management Strategy – Rural Residential Component.

Detailed survey and site analysis has further informed the extent of flood free land suitable for large lot residential use and the planning proposal boundaries are based on the more accurate information and seeks to include additional suitable lands.



With respect to Dondingalong, the strategy identified the subject area as having good demand, high in Euroka and moderate in Dondingalong. Land in Dondingalong has good access and is less constrained compared to other areas. accessibility, strong market demand, moderate infrastructure availability.

Figure 4 below provides an extract from the Strategy Map 14. The mapped areas in the strategy were intended to reflect flood free suitable land for rural residential purposes. The detailed survey of the land has demonstrated a greater extent of suitable land than mapped in the strategy.



Map 14: Dondingalong Land Release Staging

Figure 4 LGMS Extract Map 14

Figures 1 & 3 above demonstrate the extent of suitable flood free land available on the site.

The Planning Proposal is not entirely consistent with the area identified in Map 14 with an additional area proposed for inclusion in the R5 zone. The boundaries of the additional area are defined by recent survey detail and include suitable flood free land as well as minor flood fringe land where fragmentation and split zone issues need to be avoided.

Council Policy 1.1.16 - "Consideration of Planning Proposal for land not identified in the Rural Residential Land Release Strategy" provides a suite of Sustainability Criteria by with to assess the proposal and compare it to land included in the strategy. In this case the Planning Proposal seeks to rezone land in the strategy and include additional suitable land immediately adjacent and contiguous with the mapped strategy areas.



Table 1:Sustainability Criteria for Land not in the Strategy

a) Social Criteria	
i) The land has direct access from a dedicated public road constructed to bitumen-sealed standard in accordance with the requirements of <i>Kempsey DCP 2013</i> .	Complies
 ii) The subdivision will contribute to the social activities offered in the Shire's towns and villages. 	Complies – subdivision is a logical extension to existing Dondingalong Rural Residential areas.
b) Economic Criteria	
i) The land is within 500 metres of the nearest Council provided garbage service.	Complies
ii) The development will support increased expenditure on goods and services provided in Kempsey.	Complies
 iii) The development may be carried out in an economically viable manner through reduced costs of clearing, roads and other required infrastructure. 	Complies
c) Environmental Criteria	
 i) The land is not within 500 metres of any permanent creeks, rivers or wetlands or suitable means to prevent the discharge of nutrients into any watercourse cannot be demonstrated. 	Complies – suitable means available to prevent discharge of nutrients into
ii) The land is not located in a visually prominent location.	Complies – similar visual impact to mapped strategy areas.
iii) The land contains less than 10% tree cover as a result of the lawful removal of trees.	Complies – additional land is primarily clear of trees.
iv) The proposed subdivision is consistent with the existing pattern of development in the locality.	Complies – the additional land represents a logical extension of mapped area
v) No clearing of any Core, Primary, Class A or Class B Koala habitat identified by the <i>Kempsey Comprehensive</i> <i>Koala Plan of Management</i> is likely to result from the development.	Complies – plans demonstrate no KFTs need to be removed for the additional land to be included
d) Governance	
i) The land is not within or adjacent to any residential or industrial land release areas.	Complies – land is adjacent rural residential release area only.
ii) The land is not within 1,000 metres of any potentially conflicting industrial, recreational, commercial or intensive agricultural land use or within 100 metres of any land use buffer specified by Kempsey DCP 2013.	Complies – land within the release strategy is in closer proximity to the Bates Quarry than the proposed extension.
iii) The land does not require construction of any new access point to the Pacific Highway.	Complies
iv) The land is not zoned RU4 under KLEP 2013.	Complies



Locality Specific Issues identified in the Local Strategy for the Dondingalong Land Release Area include, but are not limited to:

- Potential impacts of noise, dust and vibration from Bates Quarry
- The impact of any conflicting adjoining agricultural uses
- The means of rationalising access to facilitate an efficient pattern of subdivision
- The impact of any adjoining transport facility
- The extent of the 1 in 100 year flood
- 2B and unknown Koala habitat
- Predominantly Class 5 Acid Sulfate Soil, with a small area of western portion of release area mapped as not being affected by Acid Sulfate Soil

A concept layout for the site is provided at *Appendix A* and demonstrates an acceptable outcome in light of the above considerations. Noting that concept Lot 15 is the residue rural land to be consolidated with the adjacent rural holding to the west.

The northern most extent of Lot 6 is flood prone and not included in the planning proposal area. Small edges (east & west) of the planning proposal area are subject to fringe flooding as illustrated by the Survey Plan in *Appendix A*.

Identified ecological constraints are manageable and the land is already serviced by sealed public road frontage, electricity and telecommunication services. Reticulated water supply mains are located along the frontage of Lot 1 DP 1111175.

The proposal will provide additional housing stock for the area. The land proposed for future dwelling sites is above the flood level and each lot has suitable area for building envelopes having regard to bushfire asset protection zones, protection of identified koala food trees and on site waste water disposal.

Copies of the site-specific assessment reports relating to Bushfire hazard, Koala Tree locations and On Site Waste Water management are provided at *Appendix B*.

Potential amenity impacts from Bates Quarry

The subject land is approximately 450m from the closest working face of the Quarry known as Bates Quarry. Under development application T6-14-53 approval to increase extraction and expand the quarry footprint was granted by the Joint Regional Planning Panel on 15 October 2014. The consent includes conditions to protect the amenity of existing residences near the quarry, specifically conditions C5 (Dust), C7 (Noise) & C9 (Blasting). Figure 5 below is an extract from the Environmental Impact Statement for the quarry expansion and it is noted that Dwellings R2, R9 & R10 are identified as potentially impacted.





Figure 5 Bates Quarry Acoustic modelling

The consent conditions for DA T6-14-53 set a maximum noise exposure of 36dBA L Aeq (15 minute) at dwellings R2, R9 & R10. The acoustic modelling indicated those dwellings would potentially be exposed to noise greater than 36dBA L Aeq (15 minute).

Land the subject of this planning proposal is located between the 35 dBA and 25 dBA contours.

In considering the survey detail and concept plans at *Appendix A* it is noted that future dwelling sites would be over 500m away and located centrally along the 30 dBA contour. This is likely due to the location of trees to be retained, an existing power easement and the preferred entrance road location through Lot 1 DP 1111175.

Development approval T6-14-53 permits the quarry to expand to the west, meaning future quarry activity will progress away from the planning proposal area.





In light of the above, the potential impacts on amenity of future residences is not considered significant and likely to lesson over the life of the quarry.



Potential for conflict with adjoining agricultural uses *DPI buffers*

The Department of Primary Industry Guidelines for buffers to agriculture recommend a 50m buffer from grazing lands to residences. The character of the site is such that minimum 50m buffer and larger physical separation distance from building envelopes to adjacent farmland to the north can be achieved. An assessment of potential conflicting land use (LUCRA) from the Living & Working in Rural Areas Handbook 2009 has been undertaken and is provided at **Appendix C.**

Farmland Mapping

The north most edge of Lot 6 adjacent the Macleay River is mapped under the Regionally Farmland Mapping and is well beyond the Planning Proposal area, approximately 670 m separation. The intervening land is to remain in use for cattle grazing by the current land owner and his family.



Figure 7 Farmland mapping Macleay River edge

Access

The most appropriate location for the a new road entrance is through Lot 1 DP 1111175 off Gowings Hill Road as indicated on the concept subdivision plan at *Appendix A*. There are no other suitable access solutions or opportunities to rationalise access. There is no adjoining transport facility in this location.

Flood prone land

The detailed survey by Mr Peter Phillis at *Appendix A* demonstrates the topography of the land. The low ridge is drained on both sides by local gullies.



Sections of these gullies and the lowest edges of the land are identified as being within the 1% AEP level RL 15.2m AHD. As demonstrated on the subdivision concept each 1 ha lot has ample area of flood free land served by the internal road.

Secondary Class B Koala Habitat

The Kempsey Shire Comprehensive Koala Plan of Management maps the planning proposal as being within Secondary Class B Koala Habitat & Unknown.

The land has a long history of use as a cattle farm and former dairy farm. The area of the planning proposal retains scattered trees over pasture grass and species identified are dominantly Iron Bark and Forest Redgum in the centre west. The area south of the overhead powerlines fronting Gowings Hill Road includes some a mix of species including some Tallowwood, Ironbark and Bloodwood.

The detailed field survey has identified Koala Food Trees listed under Kempsey's Comprehensive Koala Plan of Management. The subdivision concepts at *Appendix A* demonstrate that each lot can achieve a dwelling without the need to remove identified Koala Food Trees.

Refer to the detailed survey for tree locations and identification.

Bushfire

The bushfire hazard assessment identifies that all future dwellings can be built to the requirements of BAL 29 or better.

Cultural Heritage

An AHIMS search for the locality reveals no recorded site within 200m to of the land. A copy of the search result is provided at *Appendix B*. It is anticipated that consultation with the Local Aboriginal Communities associated with the locality would be required as part of the Gateway process.

Onsite Waste Water Management

The Onsite Sewage Management Assessment by *Midcoast Building and Environmental* recommends options for wastewater treatment and disposal systems. A copy of the assessment is provided at *Appendix B*.

Stormwater

Each lot is 1 ha in area or greater and has sufficient dimensions to accommodate stormwater capture, re-use and release within the site boundaries. Road stormwater will be conveyed by way of grass dish rains/swales and detailed engineering design will determine where (if any) road drainage easements might be needed through the lots. Taking into account the large lot sizes proposed, further stormwater detail is not considered necessary for the planning proposal.



(ii) Regional Strategy

North Coast Regional Environmental Plan 2036

The Planning Proposal is consistent with the North Coast Regional Environmental Plan 2036 as it provides for new housing for the expanding population and proposes new rural-residential development within proximity of an existing settlement.

The identified area is consistent with Goal 4 of the Plan as its supports 'great housing choice and lifestyle options' and is consistent with Direction 24 of the plan delivering well planned rural residential housing.

The identified area is :

- Close to the existing settlement of Kempsey and not sufficiently proximate or connected to be an urban expansion area.
- Adjoins the existing Dondingalong Rural Residential areas, is away from the coast and does not require significant vegetation clearing.

Land not identified in the Local Strategy meets the sustainability criteria expressed in Council's Policy and articulated in the Regional Strategy.

3.3.3 Is the planning proposal the best means of achieving the objectives or intended outcomes?

There is no other mechanism available to achieve the objective of large lot residential development on the land. Council has not indicated a timeframe for a shire wide rezoning to reflect the recommendations of the Strategy and will in the interim consider site specific Planning Proposals



3.3.4 Is the planning proposal consistent with applicable Ministerial Directions (s.117 Directions)?

117 Direction No. 1.2 Rural Zones
117 Direction No. 1.5 Rural Lands
117 Direction No. 2.1 Environment Protection Zones
117 Direction No. 3.1 Residential Zones
117 Direction No. 3.4 Integrating Land Use and Transport
117 Direction No. 4.1 Acid Sulfate Soils
117 Direction No. 4.3 Flood Prone Land
117 Direction No. 5.1 Implementation of Regional Strategies
117 Direction No. 6.1 Approval and Referral Requirements
117 Direction No. 6.3 Site Specific Provisions

Appendix D addresses the relevant S117 directions and where relevant justifies any inconsistencies.

- a. Does the proposal have site-specific merit and is it compatible with the surrounding land uses, having regard to the following:
 - The natural environment (including known significant environmental values, resources or hazards) and
 - The existing uses, approved uses, and likely future uses of land in the vicinity of the proposal and
 - The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure.

Natural Environment:

The *natural environment* of the site is limited due to a long history of cattle grazing and dairy farming.

The vegetation within the planning proposal area predominantly consists of derived pasture grasses with scattered mature trees. Identified Koala Food trees can be retained within the lots without being impacted by future dwelling sites.

Adjacent holdings to the east and to the west include existing lifestyle lots & smaller farms.

Flooding

The Planning Proposal area is flood free with some outer edges subject to fringe flooding. All future lots have flood free dwelling sites and surrounds.

Infrastructure

The site is already serviced by sealed public road, electricity & telecommunications. Town water supply for future dwellings is identified as the preferred option, subject to confirming adequate water supply pressures. Tank supply is also a reasonable option.



Road network capacity

Examination of Gowings Hill Road network reveals that the current standard of construction and road network capacity appears adequate for the likely additional traffic generation from 14 future rural residential allotments. A single access point has been identified and shown on the concept plans at *Appendix A*.

3.3.5 Is the planning proposal consistent with a council's local strategy or other local strategic plan?

Part of the Planning Proposal is consistent with Council's local strategy and part is additional to that strategy. The additional land, outside Council's strategy mapping satisfies the sustainability criteria specifically provided under Council Policy 1.1.16.

3.3.6 Is the planning proposal consistent with applicable State Environmental Planning Policies?

The proposal is consistent with or justifiable as inconsistent with the relevant State Environmental Planning Policies. Refer to **Appendix E** for details.

Section C: Environmental, Social and economic Impact

3.3.7 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 subject land has been used for cattle grazing and formerly dairy farming. It is mostly cleared, comprising scattered trees and 'pasture' grass communities.

The concept layout provided at *Appendix A* demonstrates that identified Koala Food tree retention is feasible as part of a subsequent development application.

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

All relevant matters have been addressed above and considered within S117 directions and State Environmental Planning Policies.

3.3.9 Has the planning proposal adequately addressed any social and economic effects?

A positive economic benefit is anticipated both in the short term, during construction and longer term, with respect to the local economy and social vibrancy. The residents of the future lots and dwellings are likely to utilise the schools, shops and other services available in nearby Kempsey.

The social benefits providing additional local housing stock is considered positive both locally & regionally. The style of housing being large lot rural-residential properties



satisfies the need for additional housing whilst not adding pressure of existing infrastructure such as reticulated water supply.

Section D: State and Commonwealth Interests

3.3.10 Is there adequate public infrastructure for the planning proposal?

Public infrastructure is in place as part of the existing rural lifestyle area.

3.3.11 What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

This section is completed following consultation with the State and Commonwealth authorities should the Director General determine to proceed with the Planning Proposal and identifies which authorities are to be consulted with.



3.4 Part 4: Mapping

3.4.1 The land subject to the planning proposal



Figure 8 Land Subject to Planning Proposal

Part Lot 6 DP 818216 & Lot 1 DP 1111175 Gowings Hill Road, Dondingalong





3.4.2 Current land use zone

Current zoning as applies to Lot 6 DP 818216 – RU1 Primary Production and Lot 1 DP 1111175 – RU2 Rural Landscape



3.4.3 Current development standards



40ha minimum lot size for subdivision and dwellings.

Figure 10 Current Lot Size Mapping



3.4.4 Suggested alternative zone(s)

The planning proposal is to apply the R5 Large Lot Residential to the southern part of the site reflecting the flood free part of the land. The rural residue will contain some flood free land and river flats through to the Macleay River frontage under the existing RU1 Primary Production zone.



Figure 11 Proposed Zone R5 Large Lot Residential





3.4.5 Suggested alternative minimum lot size – Y1 1Ha

Figure 12 Proposed Minimum Lot Size - Y1 1Ha



3.5 PART 5: Community Consultation

Community Consultation will be undertaken in accordance with any conditions specified in the Gateway Determination and Kempsey Shire Council's Rezoning Policy & Procedure 1.1.9, Section 3 Public Notification and Consultation.

3.6 Part 6: Project Timeline

The project is to be completed in accordance with the preliminary timeline below:

LEP Amendment Steps	Estimated Project
	Timing
Submit Planning Proposal to DP& E	
Receive Gateway Determination	
Preparation of additional studies/planning proposal inclusions *	
Authority consultation pre exhibition	
Preparation of materials for public exhibition & authority consultation	
Review and consideration of submissions	
Council report preparation	
Public submission report and draft LEP amendment to Council for adoption	
Submission to the department to finalise the LEP	
* If required Alf delegated	

* If required ^ If delegated

Yours faithfully

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APPENDIX A – DETAILED SURVEY & CONCEPT LAYOUT PLAN





