

DPI Ref: PP_2011_KEMPS_001_00

KSC Ref: T5-114

SRR:SRR

4 June 2012

DEPARTMENT OF PLANNING
LOCKED BAG 9022
GRAFTON NSW 2460



ATTENTION: Claire Purvis

Dear Claire,

SUBJECT: PLANNING PROPOSAL PP_2011_001_00

PROPERTY: LOT 4 DP1124599, NORTH STREET, WEST KEMPSEY

Received

- 7 JUN 2012

11/04339

North Coast

Regarding the above Planning Proposal, the exhibition period finished on Wednesday 29 February 2012. The Planning Proposal was reported at the following Council meeting where the following resolution was made:

"That the Kempsey local Environmental Plan 1987 Amendment No. 114 be sent to the Department of Planning and Infrastructure requesting that the Minister make the Plan."

A copy of the minutes of this meeting are attached. Council's responses to the the agencies comments are provided within the Council report.

In accordance with this resolution, Council requests the Department of Planning and Infrastructure make the Plan.

Thank you for your consideration of this matter. If you have any questions or require any information please contact the undersigned on (02) 6566 3200 or by email at shane.reinhold@kempsey.nsw.gov.au

Yours faithfully,

Shane Reinhold
AREA PLANNER
SUSTAINABLE ENVIRONMENT

15 COMMUNITY STRATEGIC AND MANAGEMENT PLAN REPORTS

GOAL 1: To Facilitate Ecological and Economical Sustainable Development in the Shire

1.1 Progress of Planning Proposal – North Street, West Kempsey File: T5-114 {Folio No. 477197}✓

1411

RBP

SUMMARY

Kempsey Local Environmental Plan 1987 (KLEP) Amendment No. 114, is now ready to be sent to the Department of Planning and Infrastructure requesting the Minister to make the Plan.

Applicant: GEOLINK Pty Ltd - Simon Waterworth
PO Box 1446
Coffs Harbour
Subject Land: Lot 4 DP1124599, North Street, West Kempsey
Zone: 1(d) (Rural (Investigation) "D" Zone) and
1(e) (Rural (Floodway) "E" Zone)

Proposed Development

The Planning Proposal is to rezone the subject land from 1(d) (Rural (Investigation) "D" Zone) to 2(a) (Residential "A" Zone). The land identified in the Planning Proposal is identified in the local and regional strategic planning framework as a potential residential land release area.

2012. 143 RESOLVED:

*Moved: Cl. Green
Seconded: Cl. Saul*

That the Kempsey Local Environmental Plan 1987 Amendment No. 114 be sent to the Department of Planning and Infrastructure requesting that the Minister make the Plan.

A Division resulted in the following votes.

**F = Voted For
A = Voted Against**

Bowell	F	Campbell	F	Green	F	Gribbin	F	Saul	F
Sproule	F								

RECOMMENDATION IMPLICATIONS

Environmental: *Submission from the Office of Environment and Heritage (OEH), raises no objections. OEH agrees with the Flora and Fauna Assessment prepared by Geolink and the mitigation measures contained within.*

Social: New residential land adjacent to existing residential land reduces fragmentation and land use conflicts, as well as creating a coherent and more complete neighbourhood.

Economic (Financial): The rezoning is considered to have the following economic implications:

- Increase in the variety of residential land available locally;
- In the short term, increased employment during construction phases of future subdivision and subsequent dwellings; and
- In the long term, a minor strengthening of the local economy due to additional consumers purchasing from local businesses.

Policy or Statutory: The proposed residential use of the land is not inconsistent with Council's Draft Residential Component of the Local Growth Management Strategy. The proposed rezoning is not inconsistent with the Mid North Coast Regional Strategy.

REPORT DETAILS

Council resolved on 15 February 2011 to refer KLEP Amendment No 114 to the Department of Planning and Infrastructure (DoPI) for a Gateway Determination. The DoPI issued a Gateway Determination on 28 March 2011, copy of which is appended **(Appendix B - Page SE2)**.

Public Consultation

The Gateway Determination required a public consultation process, which was undertaken by Council for twenty-eight (28) days from Tuesday 31 January 2012. Council referred the Planning Proposal documents to the following public authorities:

- Kempsey Local Aboriginal Land Council;
- Area Health Service;
- NSW Health;
- Department of Environment, Climate Change and Water (DECCW);
- Office of Environment and Heritage.

Responses received from the public authorities were supportive of the Planning Proposal, copies of which are appended **(Appendix C - Page SE6)**.

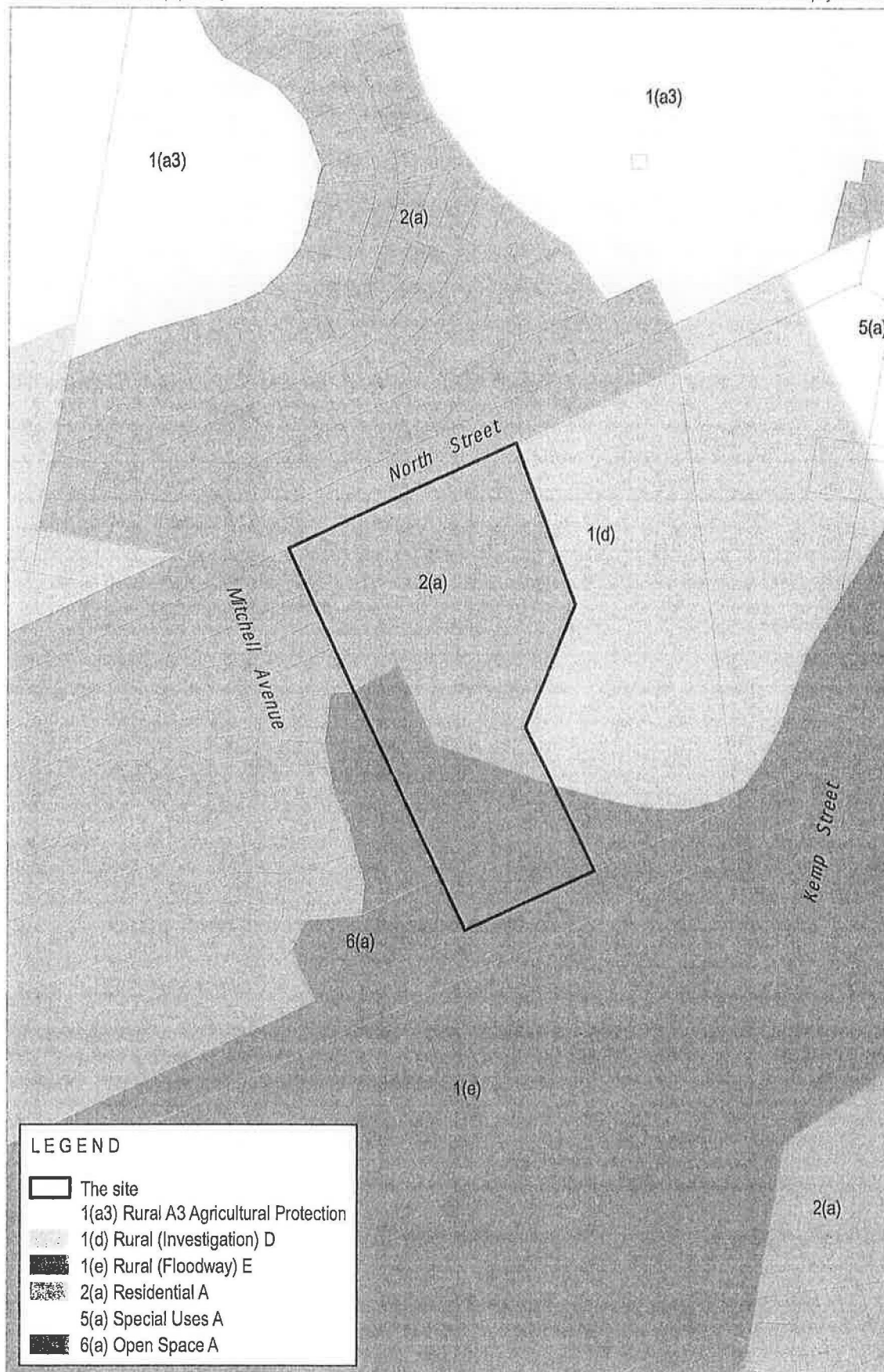
Agency	Issue Comments	Response
NSW Health Population Health	NCPHU supports measures referenced in the Planning Proposal to attempt to mitigate risks to future residents of the development by the use of appropriate buffers, the use of screens for all dwelling openings and screened outdoor areas.	Subsequent developments should include conditions relating to screening of dwelling openings and screened outdoor areas.
OEH	• No objections raised; • Consistent with Mid North Coast Regional Strategy and Councils Local Growth Management Strategy;	Any relevant matters to be applied as conditions to any Development Consents.

Agency	Issue Comments	Response
	• Agree with conclusions and recommendations made in Geolink Report, Section 8. Mitigation measures should be reflected in any subsequent development consents; • Various recommendations as to what Council should be satisfied of in respect of flooding; • Fill required is adequately assessed; • No AHIMS records for the site; • OEH recommends adopting Best Practice Guidelines in relation to Noise and Water Sensitive Urban Design.	
Aboriginal Land Council	No submission received.	

The final step in the Gateway process is to refer the Planning Proposal to the Minister of Planning for determination.

Information shown is for illustrative purposes only

Drawn by: RE Reviewed by: MME Date: August 2010
Source of base data: Kempsey Shire Council



LEGEND

- The site
- 1(a3) Rural A3 Agricultural Protection
- 1(d) Rural (Investigation) D
- 1(e) Rural (Floodway) E
- 2(a) Residential A
- 5(a) Special Uses A
- 6(a) Open Space A

0 80

GeoLINK

Proposal: North Street, West Kempsey

Proposed Zoning

Illustration 1

Contact: Claire Purvis
Phone: (02) 6641 6611
Fax: (02) 6641 6601
Email: Claire.Purvis@planning.nsw.gov.au
Postal: Locked Bag 9022, Grafton NSW 2460

Our ref: PP_2011_KEMPS_001_00 (11/01875)
Your ref: T5-144 SRR:SRR

Mr David Rawlings
General Manager
Kempsey Shire Council
PO Box 78
WEST KEMPSEY NSW 2440

Dear Mr Rawlings,

Re: Planning Proposal to rezone land in West Kempsey from 1(d) (Rural (Investigation) 'D' Zone) to 2(a) (Residential 'A' Zone)

I am writing in response to your Council's letter dated 4 March 2011 requesting a Gateway Determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend the Kempsey Local Environmental Plan 1987 to rezone land in West Kempsey from 1(d) (Rural (Investigation) 'D' Zone) to 2(a) (Residential 'A' Zone).

As delegate of the Minister for Planning, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway Determination.

It is noted that mosquito habitat exists in the freshwater wetland on part of the property subject to this planning proposal. The North Coast Settlement Planning Guidelines require an assessment to be carried out to identify the level of health risk and the extent of any buffers required to ameliorate risks. Therefore, Council are to undertake an assessment of the risk of mosquito-borne diseases to future residents of the site, and include this material in the planning proposal for exhibition purposes.

The Director General's delegate has also agreed that the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones and 1.5 Rural Lands are of minor significance. No further approval is required in relation to these Directions.

In terms of S117 Direction 4.3 Flood Prone Land, Council is to undertake further assessment of flooding issues so that the proposal can be modified if necessary prior to exhibition. Council is to consult with the Department's Regional Team and resubmit the proposal to the Regional Director, Northern Region for further consideration to ensure the planning proposal is in a form that is acceptable prior to exhibition. Subject to Council satisfying this requirement, the Director General's delegate has agreed that the planning proposal's inconsistencies with S117 Direction 4.3 Flood Prone Land are of a minor significance.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the week following the date of the Gateway Determination. Council should aim to commence the exhibition of the Planning Proposal within four (4) weeks from the week following this determination. Council's request for the Department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the

Minister may take action under s54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Claire Purvis of the Regional Office of the Department on 02 6641 6611.

Yours sincerely,



Tom Gellibrand 28/3/11
Deputy Director General
Plan Making & Urban Renewal

Gateway Determination

Planning Proposal (Department Ref: PP_2011_KEMPS_001_00): to rezone land in West Kempsey from 1(d) (Rural (Investigation) 'D' Zone) to 2(a) (Residential 'A' Zone)

I, the Deputy Director General, Plan Making & Urban Renewal as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment to the Kempsey Local Environmental Plan 1987 to rezone land in West Kempsey from 1(d) (Rural (Investigation) 'D' Zone) to 2(a) (Residential 'A' Zone) should proceed subject to the following conditions:

1. Council is to undertake further assessment of flooding issues prior to exhibition in order to justify inconsistencies with S117 Direction 4.3 Flood Prone Land. Council is to consult with the Department's Regional Team and resubmit the proposal to the Regional Director, Northern Region for further consideration to ensure the planning proposal is in a form that is acceptable prior to exhibition.
2. Council is to undertake an assessment of the risk of mosquito-borne diseases to future residents of the site, and include this material in the planning proposal for exhibition purposes.
3. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning 2009)* and must be made publicly available for **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
4. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Aboriginal Land Council
 - Area Health Service
 - Department of Environment, Climate Change and Water
 - National Parks and Wildlife Service
 - NSW Health

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

6. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 28th day of March 2011.



Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal
Delegate of the Minister for Planning

**Office of
Environment
& Heritage**

Your reference: T5-114 SRR:KMP
Our reference: DOC12/4555 FIL07/9391

PIP 4 (7575 (out) 25/1/12

Mr D Rawlings
General Manager
Kempsey Shire Council
PO Box 3078
West Kempsey NSW 3078

Att: Mr Shane Reinhold

Dear Mr Rawlings

KSC RECEIVED	
FOLIO	470639
24 FEB 2012	
FILE	T5-114
OFFICER	SDS SRR (mrr)

Re: Planning Proposal T5-114. Lot 4 DP1124599, North Street, West Kempsey.

Thank you for Council's letter dated 25 January 2012 advising that the abovementioned Planning Proposal is currently on public exhibition and requesting comment from the Office of Environment and Heritage (OEH) in accordance with the gateway provisions of the *Environment Planning and Assessment Act 1979* (EP&A Act).

OEH has reviewed the documents supplied and provides the following response.

1. The proposal appears to be consistent with the Department of Planning and Infrastructure's Mid North Coast Regional Strategy and Council's Urban Growth Management Strategy. The site appears to be highly disturbed from agricultural activity, is predominantly cleared and is flanked by residential development on two sides.
2. The Flora and Fauna Survey and Impact Assessment completed by Geolink P/L is comprehensive and OEH agrees with its conclusions and recommendations made in Section 8. OEH suggests the proposed mitigation measures are reflected in any subsequent development consents should the rezoning proceed. In particular, any remaining hollow bearing trees should be retained where practical in accordance with any native vegetation preservation clauses contained in Council's standard instrument Local Environment Plan (in prep).
3. OEH advises that the catchment planning studies, referred to as Appendices D1 and D2 on pages 25 and 26 of the Planning Proposal, have not been supplied for review. It is noted that these documents purportedly address the direct impact of flooding and the cumulative impact of fill on the development site and the catchment as a whole.

OEH recommends that Council be satisfied that the proposal:

- Will not adversely impact on the floodplain,
- Is consistent with the outcomes of any modelling studies,
- Has assessed the impact of climate change (rainfall and sea level rise),
- Has adequate evacuation services and emergency access points
- Does not impede local drainage patterns in nearby residential areas.

OEH also recommends that any environmental impact at the source for the fill required over the eight lowest lots is adequately assessed.

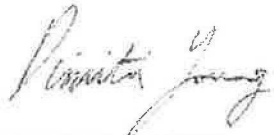
4. According to the OEH Aboriginal Heritage and Information System (AHIMS), there are no recorded Aboriginal objects on site. OEH also notes that consultation with the local Aboriginal community suggests the area has no particular cultural significance.
5. OEH acknowledges that other environmental matters within its statutory responsibilities, for example, air and water quality and noise impact are unlikely to be affected by the proposal and that Council is the appropriate regulatory authority under the *Protection of the Environment and Operations Act 1997* for these matters. OEH recommends that best practice be adopted for these matters as detailed in Council and OEH manuals relating to residential noise policy and water sensitive urban design.

In view of the above points, OEH raises no objection to the Planning Proposal provided Council adopts the proposed flora and fauna mitigation measures and is satisfied that any adverse flood and climate change impacts are adequately addressed.

For future reference, could you please note that planning related matters under Part 3 of the EP&A Act should be forwarded directly to this office rather than the National Parks and Wildlife Service in Sydney.

If you require further information or clarification, please contact, Mr John Martindale, Conservation Planning Officer on telephone 02 6659 8222.

Yours sincerely



23 February 2012

DIMITRI YOUNG
Head - North Coast Planning Unit
Office of Environment and Heritage



Health
Population
Health

FILE - EH 04/279

22nd December 2011

Mr Shane Reinhold
Area Planner
Kempsey Shire Council
PO Box 3078
WEST KEMPSEY NSW 2440

Dear Mr Reinhold,

Thank you for your letter dated 8th September 2011 relating to the planning proposal T5-114 Property Lot 4 DP1124599, North Street, West Kempsey and seeking comments in general and specifically in relation to the risk of mosquito borne diseases to future residents.

I apologise for the delay in providing a response and please find comments from North Coast Public Health Unit (NCPHU) in relation to the proposal -

- Mosquito borne diseases are endemic to the North Coast of NSW
- NCPHU has not undertaken mosquito monitoring in the Kempsey area
- The NCPHU supports NSW Planning recommendation that an assessment of the risk of mosquito borne disease to future residents of the site is carried out
- A large number of different types of mosquitoes are known to inhabit freshwater wetlands which can be nuisance biters and some are known to be vectors of arboviral disease
- Information on management of mosquitoes in freshwater wetlands can be found at - <http://medent.usyd.edu.au/arbovirus/mosquit/mosquitoes.htm>
- NCPHU supports measures referenced in the planning proposal to attempt to mitigate risks to future residents of the development by the use of appropriate buffers, the use of screens for all dwelling openings and screened outdoor areas
- NCPHU notes that there is existing residential development in the area adjoining the planning proposal site. NCPHU had not had any historical complaints from residents in this area relating to concerns with mosquitoes
- Although Kempsey Shire is north of the study area another useful reference document is titled 'Living with Mosquitoes in the Lower Hunter and Mid North Coast Region of NSW' http://www.hnehealth.nsw.gov.au/data/assets/pdf_file/0020/63470/Living_With_Mosquitoes_-_2nd_Edition_-_DECEMBER_2009.pdf

Please contact me on 02 6588 2768 or by email on David.Basso@ncahs.health.nsw.gov.au if you require further information or wish to discuss any aspect of this correspondence.

Yours sincerely

David Basso
Environmental Health Officer

Population Health - North Coast Public Health
(Covering both MNC and Northern NSW Local Health Networks)
PO Box 126 Port Macquarie NSW 2444
Tel (02) 6588 2750 Fax (02) 6588 2837
Website <http://www.ncahs.nsw.gov.au/public-health/>