



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).



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

Dated *28<sup>th</sup>* day of *March* 2011.

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