



Mr D Rawlings
General Manager
Kempsey Shire Council
PO Box 3078
West Kempsey NSW 2440

Our ref: PP_2015_006_00 (15/17843)
Your ref: KLEP-2013-AM-9

Dear Mr Rawlings

Planning proposal to amend Kempsey Local Environmental Plan 2013

I am writing in response to your Council's letter dated 8 December requesting a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to amend the Kempsey Local Environmental Plan (LEP) 2013 to allow 'information and education facilities' and 'restaurant or cafes' as uses that are permitted with consent in the RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production Small Lots, as well as 'tourist and visitor accommodation' in RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots and R5 Large Lot Residential zones.

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

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistencies with S117 Directions 3.6 Shooting Ranges, 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land and 5.4 Commercial and Retail Development along the Pacific Highway, North Coast are of minor significance. No further approval is required in relation to these Directions.

Council may still need to obtain the agreement of the Department's Secretary to comply with the requirements of S117 Direction 4.4 Planning for Bushfire Protection. Council should ensure this occurs prior to the plan being made.

Plan making powers were delegated to councils by the Minister in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending 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 as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning and Environment's Northern Region office for administrative purposes.

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 section 54(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, I have arranged for Mr Daniel Summerhayes to assist you. Mr Summerhayes can be contacted on (02) 6641 6614.

Yours sincerely

 10 December 2015
Stephen Murray
General Manager, Northern Region
Planning Services

Encl:
Gateway Determination
Written Authorisation to Exercise Delegation
Attachment 5 – Delegated Plan Making Reporting Template

Gateway Determination

Planning proposal (Department Ref: PP_2015_KEMPS_006_00): to amend the Kempsey Local Environmental Plan (LEP) 2013 to allow 'information and education facilities' and 'restaurant or cafes' as uses that are permitted with consent in the RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production Small Lots, as well as 'tourist and visitor accommodation' in RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots and R5 Large Lot Residential zones

I, the General Manager, Northern Region at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Kempsey LEP 2013 to allow 'information and education facilities' and 'restaurant or cafes' as uses that are permitted with consent in the RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production Small Lots, as well as 'tourist and visitor accommodation' in RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots and R5 large lot residential zones should proceed subject to the following conditions:

1. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the planning proposal is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning and Infrastructure 2013)* must be made publicly available for a minimum of **14 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 5.5.2 of *A Guide to Preparing LEPs (Department of Planning and Infrastructure 2013)*.
2. Consultation is required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant S117 Directions:
 - NSW Rural Fire Service
 - NSW Department of Primary Industry - Agriculture

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.
3. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the 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).



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

Dated *18K* day of *December* 2015


Stephen Murray
General Manager, Northern Region
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning

WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Kempsey Shire Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2015_KEMPS_006_00	Planning proposal to amend the Kempsey LEP 2013 to allow 'information and education facilities' and 'restaurant or cafes' as uses that are permitted with consent in the RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production Small Lots, as well as 'tourist and visitor accommodation' in RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots and R5 Large Lot Residential zones

In exercising the Minister's functions under section 59, the Council must comply with the Department of Planning and Environment's "*A guide to preparing local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 18 December 2015



Stephen Murray
General Manager, Northern Region
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning