



Planning Proposal

KLEP 2013 Amendment No 9

Various Land Use Table Amendments

Permissibility 'Information and Education Facilities', 'Restaurant or Café's' in RU1 Primary Production, RU2 Rural Landscape, and RU4 Primary Production Small Lots and 'Tourist and Visitor Accommodation' in RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots and R5 Large Lot Residential land use zones.

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1. PART 1 – OBJECTIVES OR INTENDED OUTCOMES

1.1 INTRODUCTION

This planning proposal has been prepared by Kempsey Shire Council ('Council') and is Draft Kempsey Local Environmental Plan (KLEP) 2013 Amendment No 9.

This proposal refers to all land within the Kempsey Local Government Area zoned *RU1 Primary Production*, *RU2 Rural Landscape*, *RU4 Primary Production Small Lots* and *R5 Large Lot Residential*. Council is seeking to amend land use provisions prescribed within the KLEP 2013 to allow '*information and education facilities*' and '*restaurants or caf  s*' as uses that are permitted with consent in the RU1, RU2 and RU4 zones, as well as to alter the permissibility arrangement for '*tourist and visitor accommodation*' in the RU1, RU2, RU4 and R5 Zones Land Use Tables.

1.2 Objectives and Aims

The objectives of this planning proposal are:

- To permit with consent '*information and education facilities*' and '*restaurants or caf  s*' within the RU1 Primary Production, RU2 Rural Landscape, and RU4 Primary Production Small Lots zones within the Kempsey Shire Local Government Area (LGA); and
- To alter the permissibility arrangement for '*tourist and visitor accommodation*' in the Land Use Table, making the group term permitted with consent and prohibiting development ('*backpackers accommodation*', '*hotel or motel accommodation*' and '*serviced apartments*') that is not desired within the RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots and R5 Large Lot Residential zones within the Kempsey Shire Local Government Area (LGA). Note: The current arrangement prohibits the group term of '*tourist and visitor accommodation*' in the Land Use Table and permits with consent '*farm stay accommodation*' and '*bed and breakfast accommodation*' in these land use zones (except in the R5 zone which prohibits '*bed and breakfast accommodation*').

The aims of the planning proposal are:

- Provide the opportunity for landowners in the RU1, RU2, RU4 and R5 zones to benefit from financial, social and physical benefits of allowing '*information and education facilities*', '*restaurants or caf  s*' and '*tourist and visitor accommodation*' where appropriate;
- Provide, in principle, for greater tourist and visitor accommodation diversity and experiences; and
- Promote cultural and social establishments to serve visitors and the local community;

1.3 Background

The foundation of this planning proposal resulted from a Council resolution (18 June 2013) during the draft stages of the KLEP 2013 (the first form of the Standard Instrument LEP) which specified that "the issue of permissibility of tourist facilities in R5 zones be placed on public exhibition for a minimum period of 28 days". During the public exhibition of the Draft KLEP 2013 Council had applied '*tourist and visitor accommodation*' in a narrow fashion and had inadvertently prohibited a range of Tourist Accommodation land uses in the R5 and other rural zones, which was not intended. Rather than alter the Draft KLEP 2013 without informing the community, Council resolved to amend the KLEP 2013 to rectify the use of '*tourist and visitor accommodation*' post the KLEP 2013 commencement.

In addition, Council has identified a desire within the community for greater flexibility to allow the development of *‘information and education facilities’* and *‘restaurants or cafes’* in rural areas within the LGA. The desire was evidenced by an increasing number of enquiries from landowners in different locations throughout the LGA wishing to undertake development within the scope of *‘restaurant or café’* and *‘information and education facilities’*. Things such as tea houses using local produce, or café’s using bushfoods, or artist studios premises with café’s attached.

Various reasons to justify this desire have been conveyed to Council, with the primary reasons including:

- To allow for a second source of income to be generated from the property by operating an additional business on site, such as produce from the property;
- To enable development that takes advantage of and preserves the rural amenity, character and environment of the locality;
- To capitalise on the emerging demand for the development of museums, galleries, cafes, tea rooms, coffee houses or the like, as well as tourist and visitor accommodation within the rural landscape; and
- To provide places of social and cultural importance for visitors and local residents.

Other benefits identified by Council include:

- To provide for a broader range of facilities and services available in a rural context and setting;
- To foster a cultural reputation and identity in rural locales;
- To encourage younger generations to be physically and financially invested in rural property;
- To create the opportunity for new and innovative business ventures and the resulting financial, social and economic benefits;
- To encourage development that aligns with Council’s economic and agricultural goals as well as its focus on micro agri businesses;
- To increase social cohesion and social inclusion in rural areas;
- To allow the development of establishments to be dictated by merit based assessment and market demand rather than relying on sporadic spot rezonings; and
- To allow Kempsey to take advantage of an increasing area of interest for residents and tourists, of food, cultural, and art based tourism in rural areas.

1.4 Land to which the planning proposal applies

This proposal refers to all land currently zoned RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots and R5 Large Lot Residential under the KLEP 2013.

1.5 Site context and setting

As the RU1, RU2, RU4 and R5 zones are all typically rural in nature these areas are located within the rural portions of the Kempsey LGA. As the LGA is primarily rural, the area that these zones apply to forms a significant proportion of the shire. The total area of the Kempsey LGA is 338,054ha. The above mentioned rural zones comprise the following area:

Table 1.1 – Proportion of Land within Kempsey LGA Affected by Planning Proposal

Zone	Area (ha)	Percentage of LGA
RU1 – Primary Production	49,410	14.6
RU2 – Rural Landscape	137,100	40.6
RU4 – Primary Production Small Lots	3,446	1.02
R5 – Large Lot Residential	2,928	0.8
Totals	192,884	57.06

2. PART 2 – EXPLANATION OF PROVISIONS

2.1 Existing Planning Controls

The dictionary within KLEP 2013 provides the following definitions:

‘information and education facility’ means a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.

‘restaurant or café’ means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

‘tourist and visitor accommodation’ means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following:

- (a) backpackers’ accommodation,
 - (b) bed and breakfast accommodation,
 - (c) farm stay accommodation,
 - (d) hotel or motel accommodation,
 - (e) serviced apartments,
- but does not include:
- (f) camping grounds, or
 - (g) caravan parks, or
 - (h) eco-tourist facilities.

‘backpackers’ accommodation’ means a building or place that:

- (a) provides temporary or short-term accommodation on a commercial basis, and

(b) has shared facilities, such as a communal bathroom, kitchen or laundry, and

(c) provides accommodation on a bed or dormitory-style basis (rather than by room).

‘bed and breakfast accommodation’ means an existing dwelling in which temporary or short-term accommodation is provided on a commercial basis by the permanent residents of the dwelling and where:

(a) meals are provided for guests only, and

(b) cooking facilities for the preparation of meals are not provided within guests’ rooms, and

(c) dormitory-style accommodation is not provided.

Note. See clause 5.4 for controls relating to the number of bedrooms for bed and breakfast accommodation.

Clause 5.4(1) of KLEP 2013 states:

If development for the purposes of bed and breakfast accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than 3 bedrooms.

Note. Any such development that provides for a certain number of guests or rooms may involve a change in the class of building under the Building Code of Australia.

‘farm stay accommodation’ means a building or place that provides temporary or short-term accommodation to paying guests on a working farm as a secondary business to primary production.

Note. See clause 5.4 for controls relating to the number of bedrooms.

Clause 5.4(1) of KLEP 2013 states:

If development for the purposes of farm stay accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than 9 bedrooms.

‘hotel or motel accommodation’ means a building or place (whether or not licensed premises under the [Liquor Act 2007](#)) that provides temporary or short-term accommodation on a commercial basis and that:

(a) comprises rooms or self-contained suites, and

(b) may provide meals to guests or the general public and facilities for the parking of guests’ vehicles,

but does not include backpackers’ accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

‘serviced apartment’ means a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner’s or manager’s agents.

The following table outlines the current permissibility arrangement of the subject land uses in the KLEP2013:

Kempsey Current	RU1	RU2	RU4	R5
Information & Education Facility	Prohibited	Prohibited	Prohibited	Prohibited
Restaurant or Café	Prohibited	Prohibited	Prohibited	Prohibited

Tourist and Visitor Accommodation	Prohibited	Prohibited	Prohibited	Prohibited
Backpackers' Accommodation	Prohibited	Prohibited	Prohibited	Prohibited
Bed & Breakfast Accommodation	Permitted with consent	Permitted with consent	Permitted with consent	Prohibited
Farm Stay Accommodation	Permitted with consent	Permitted with consent	Permitted with consent	Permitted with consent
Hotel or Motel Accommodation	Prohibited	Prohibited	Prohibited	Prohibited
Serviced Apartments	Prohibited	Prohibited	Prohibited	Prohibited

'Information and education facilities', 'restaurants or cafes' and 'tourist and visitor accommodation' are prohibited in the RU1, RU2, RU4 and R5 zones.

Council has identified that amending the provisions of the KLEP 2013 applying to the RU1, RU2, RU4 and zones to permit *'information and education facilities', 'restaurants or cafes' and 'tourist and visitor accommodation'* with consent in the RU1, RU2, RU4 and R5 zones as the most effective way to achieve the objectives and aims of this planning proposal.

It is proposed to alter the use of the group term *'tourist and visitor accommodation'* in the Land Use Table. Currently, the Land Use Table prohibits *'tourist and visitor accommodation'* as a whole in the RU1, RU2, RU4 and R5 zones, however permits *'farm stay accommodation'* with consent in all these zones and permits *'bed and breakfast accommodation'* with consent in the RU1, RU2 and RU4 zones. The amendment proposed would permit tourist and visitor accommodation as a whole in the RU1, RU2, RU4 and R5 zones and prohibit the undesirable land uses in these zones such as *'backpackers' accommodation', 'hotel or motel accommodation' and 'serviced apartments'.*

2.2 Proposed Planning Provisions

The objectives and aims described in Part 1 will be achieved by making the following amendments to the Land Use Table provisions of KLEP 2013:

- Include *'information and education facilities'* as a land use permitted with consent in the RU1 Primary Production, RU2 Rural Landscape, and RU4 Primary Production Small Lots zones;
- Include *'restaurant or cafés'* as a land use permitted with consent in the RU1 Primary Production, RU2 Rural Landscape, and RU4 Primary Production Small Lots zones;
- Include *'tourist and visitor accommodation'* as a group term land use permitted with consent in the RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots and R5 Large Lot Residential zones;
- Include *'backpackers' accommodation', 'hotel or motel accommodation' and 'serviced apartments'* as land uses that are prohibited in the RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots and R5 Large Lot Residential zones;
- Remove *'bed and breakfast accommodation'* as a land use permitted with consent in the RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production Small Lots zones;
- Remove *'farm stay accommodation'* as a land use permitted with consent in the RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production Small and R5 Large Lot Residential zones;
- Remove *'information and education facilities'* as a land use that is prohibited in the RU1 Primary Production, RU2 Rural Landscape, and RU4 Primary Production Small Lots;

- Remove *‘restaurant or cafés’* as a land use that is prohibited in the RU1 Primary Production, RU2 Rural Landscape, and RU4 Primary Production Small Lots;
- Remove *‘tourist and visitor accommodation’* as a group term land use that is prohibited in the RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots and R5 Large Lot Residential zones;

The following table outlines the intended Land Use Table amendment to the KLEP2013:

Kempsey LEP LUT Uses	RU1	RU2	RU4	R5
Information & Education Facility	Permitted with consent	Permitted with consent	Permitted with consent	Prohibited
Restaurant or Café	Permitted with consent	Permitted with consent	Permitted with consent	Prohibited
Tourist and Visitor Accommodation	Permitted with consent	Permitted with consent	Permitted with consent	Permitted with consent
Backpackers’ Accommodation	Prohibited	Prohibited	Prohibited	Prohibited
Bed & Breakfast Accommodation	Permitted with consent	Permitted with consent	Permitted with consent	Permitted with consent
Farm Stay Accommodation	Permitted with consent	Permitted with consent	Permitted with consent	Permitted with consent
Hotel or Motel Accommodation	Prohibited	Prohibited	Prohibited	Prohibited
Serviced Apartments	Prohibited	Prohibited	Prohibited	Prohibited

It is understood and noted that the Department of Planning and Environment and Parliamentary Counsel will provide the final wording for the amendment to achieve the stated aims and objectives.

2.2.1 Additional Planning Controls for *‘Restaurants and Cafés’* in RU1, RU2, and RU4 Zones

Additional Planning Controls are proposed to assist in the management of issues related to *‘Restaurant’s and Cafés’* in the RU1, RU2 and RU4 zones. Preference would be to a particular clause in the KLEP, however they could be included in a DCP. Other Council’s, such as Byron Shire Council, have included controls in their DCP including seating capacity, many of which could be considered for use.

It is proposed to develop the detail of such provisions either within the KLEP or as a separate DCP, following a Gateway Determination but prior to the Public Exhibition of the Planning Proposal. It is envisaged the controls would cover matters such as the following:

- Use of existing access to the subject land from any Arterial Road to be used for the proposed development, and apply any appropriate upgrade requirement to accommodate the additional use;
- Development is to be located so that it uses existing road and other infrastructure;
- A Seat capacity limit of 40 to 60 people(to be considered during public exhibition – seeking particular feedback);

- Council may consider a larger seating capacity where proposals are incorporating food production, harvesting for use in the restaurant, or combined with other specialised activities to value add to rural produce sold locally (ie; cheesemaking, farm tours, etc)
- Placement of the proposed development to be within a certain distance to any existing dwelling and other structures;
- It is preferable that the development is in association with a dwelling and continued rural occupation of the subject land (ie, not used solely for the commercial use as a *'Restaurant or Café'*);
- All weather car parking should be provided on-site to a specified standard;
- Applications where operating hours are proposed during evening hours to be accompanied by a noise assessment. Operating hours may be limited to closing by a certain time, ie 10pm;
- Details of effluent and Trade Waste disposal systems to be included with all applications –a separate system from any existing OSSMS system servicing a dwelling may be required.

3. PART 3 – JUSTIFICATION

3.1 Section A – Need for the Planning Proposal

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

The planning proposal is not a result of any strategic study, however a Council resolution (18 June 2013) during the draft stages of the KLEP specified that “the issue of permissibility of tourist facilities in R5 zones be placed on public exhibition for a minimum period of 28 days”.

Council uses the group term of ‘*tourist and visitor accommodation*’ in a narrow fashion in the RU1, RU2, RU4 and R5 zones and seeks to rectify that.

In addition, it has been identified that there is a desire being expressed within the community, for a range of reasons, to allow ‘*information and education facilities*’ and ‘*restaurant or cafes*’ on rural allotments within the shire.

Council has received an increasing number of enquiries from landowners wishing to undertake such developments. It is considered that the current provisions are stifling development of emerging desired land uses. The market would regulate how many a given area could have.

This option is considered more suitable than undertaking a spot rezoning for an enabling clause on properties who happen to enquire. A merits assessment will determine whether a site is suitable or not. This will enable more certainty for landowner’s and allow suitable development to proceed without delay.

It is considered that while a detailed study has not been provided the proposed amendments are consistent with the zone objectives as summarised in the table below.

Zone	Zone Objectives	Suitability for the Zone?
RU1 – Primary Production	To encourage sustainable primary industry production by maintaining and enhancing the natural resource base To encourage diversity in primary industry enterprises and systems appropriate for the area To minimise the fragmentation and alienation of resource lands To minimise conflict between land uses within this zone and land uses within adjoining zones To maintain the rural and scenic character To encourage eco-tourist facilities and tourist and visitor accommodation that minimise any adverse effect on primary industry production and scenic amenity of the area	Yes – the proposed amendments are designed to provide, in principle, for greater tourist and visitor accommodation diversity and experiences within the rural area. However, enable development within the zone that is supportive and complimentary to the predominant purpose of agriculture and not to reduce the productive potential of the land. All development resulting from this proposal would be subject to the development application and assessment process to ensure development preserves the rural amenity, character and environment of the locality and minimises fragmentation and land use conflict.

Zone	Zone Objectives	Suitability for the Zone?
	To enable agricultural support activities to be carried out on land within the zone in a manner that does not significantly reduce the agricultural and horticultural production potential of the land in the locality To encourage development that is compatible with the character of the zone.	
RU2	To encourage sustainable primary industry production by maintaining and enhancing the natural resource base. To maintain the rural landscape character of the land. To provide for a range of compatible land uses, including extensive agriculture.	Yes – The intention of the amendment is to allow these land uses, where appropriate, as a compatible form of development so landowners have the opportunity of benefiting from the financial, social and physical outcomes. All development resulting from this proposal would be subject to the development application and assessment process to ensure sustainable agricultural production and compatibility with the rural landscape and character of the area.
RU4	To enable sustainable primary industry and other compatible land uses. To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature. To minimise conflict between land uses within this zone and land uses within adjoining zones. To ensure that the nature, scale and operation of any development is compatible with the amenity of the locality.	Yes – the proposed amendments are designed to encourage supplementary income streams for working rural properties capable of supporting complimentary rural tourism, whilst respecting existing agricultural uses on site. This has the potential for increased economic development within the local area to support employment and attract local investment. All development resulting from this proposal would be subject to the development application and assessment process to ensure that the nature, scale and operation of development is compatible with the amenity of the locality and that any impacts could be mitigated.
R5	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	Yes – the proposed amendments are intended to allow development of these land uses where appropriate in terms of their context and setting. This includes such factors as the impacts on environmentally sensitive locations and scenic quality, any hindrance on the proper and orderly development of urban areas and the demand for public services or facilities. In addition to the merit assessment conducted as part of the development application process

Zone	Zone Objectives	Suitability for the Zone?
	demand for public services or public facilities To minimise conflict between land uses within this zone and land uses within adjoining zones.	will prevent development of unsuitable sites.

3.1.2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Amending the land use tables to alter permissibility of the subject land uses is the best way to achieve these outcomes. An amendment to KLEP 2013 via a planning proposal is the only way to change the land use tables applying to the RU1, RU2, RU4 and R5 zones.

3.1.3 Is there a net community benefit?

There is a net community benefit from allowing *‘information and education facilities’*, *‘restaurant or cafes’* in the RU1, RU2 and RU4 zones and *‘tourist and visitor accommodation’* in the RU1, RU2, RU4 and R5 zones as it would achieve the aims of this planning proposal which are:

- Provide the opportunity for landowners in the RU1, RU2, RU4 and R5 zones to benefit from financial, social and physical benefits of allowing *‘information and education facilities’*, *‘restaurants or café’s’* and *‘tourist and visitor accommodation’* where appropriate;
- Provide, in principle, for greater tourist and visitor accommodation diversity and experiences;
- Promote cultural and social establishments to serve visitors and the local community; and
- Bring Kempsey into line with other regional rural councils and align with Council’s broader economic and agricultural goals.

A detailed Net Community Benefit Test is provided as *Appendix A*.

3.2 Section B Relationship to strategic planning framework

3.2.1 Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

Mid North Coast Regional Strategy

Relevant chapters of the Mid North Coast Regional Strategy (MNCRS) are addressed below.

Mid North Coast Regional Strategy Aims

The aims of the MNCRS are to:

- *Protect high value environments, including significant coastal lakes, estuaries, aquifers, threatened species, vegetation communities and habitat corridors by ensuring that new urban development avoids these important areas and their catchments.*

The amendments proposed in this planning proposal will not result in ecological impacts as these would be assessed during the development application stage.

- *Cater for a minimum housing demand of 59 600 new dwellings by 2031 to accommodate the forecast population increase of 94 000 and any anticipated growth beyond this figure arising from increased development pressures in the Region.*

The amendments proposed in this planning proposal would not result in any significant negative impact on housing demand or housing provision.

- *Ensure that new housing meets the needs of smaller households and an ageing population by encouraging a shift in dwelling mix and type so that 60 per cent of new housing is the traditional detached style and 40 per cent is of multiunit style.*

The amendments proposed in this planning proposal would not result in any significant negative impact on dwelling diversity.

- *Ensure an adequate supply of land exists to support economic growth and the capacity for an additional 48 500 jobs in the Region by protecting existing commercial and employment areas and securing sufficient land to support new employment opportunities.*

The amendments proposed in this planning proposal would not result in any significant negative impact to the commercial and employment areas in the region.

- *Encourage the growth and redevelopment of the Region's four major regional centres and six major towns as a means of protecting sensitive coastal and natural environments and strengthening the economic and administrative functions of these centres as well as meeting increased housing density targets.*

The amendments proposed in this planning proposal would encourage growth and redevelopment within the Kempsey surrounds, which is designated as one of the six major towns of the region, and would subsequently benefit the economic and administrative function of this centre.

It is considered that most restaurants and cafes in the Kempsey CBD, excluding the Pubs and Clubs, are not open much past noon on Saturday. Where restaurants or cafes were in operation outside of the Kempsey CBD it is considered that they would not be in competition with the CBD businesses as they would be serving a different and additional niche within the LGA. This also provides some opportunities for residents west of Kempsey to contribute to dining/tourism choice and benefit from the additional landuses.

- *Protect the coast and the character of coastal villages by limiting growth to the agreed growth areas of towns and villages leaving greenbelts between settlements.*

The proposed changes to the KLEP 2013 will not impact the coast or character of the coastal villages.

- *Direct new rural residential development to areas close to existing settlements away from the coast.*

The amendments proposed in this planning proposal will not change plans for new rural residential development in the region.

- *Only consider additional development sites outside of growth areas if they can satisfy the Sustainability Criteria (Appendix 1).*

This planning proposal does not involve additional development sites.

- *Designate a Coastal Area east of the proposed final alignment of the Pacific Highway from which application of the Sustainability Criteria will be excluded (noting that approximately 70 per cent of the future dwelling capacity identified within growth areas is already within the Coastal Area).*

This planning proposal does not involve any exclusion from the Sustainability Criteria.

- *Limit development in places constrained by coastal processes, flooding, wetlands, important primary industry land and landscapes of high scenic and conservation value.*

All potential impacts and constraints for development (*'information and education facilities', 'restaurants or cafes'* as well as *'tourist and visitor accommodation'*) proposed as a result of the amendments in this planning proposal, including coastal processes, flooding, wetlands, important primary industry land or landscapes of high scenic and conservation value, would be assessed at the development application stage, and therefore any significant impacts would be avoided.

- *Protect the cultural and Aboriginal heritage values and visual character of rural and coastal towns and villages and surrounding landscapes.*

All potential impacts, including impacts on cultural and Aboriginal heritage values and visual character of rural and coastal towns and villages and surrounding landscapes of development (*'information and education facilities', 'restaurants or cafes'* as well as *'tourist and visitor accommodation'*) proposed as a result of the amendments in this planning proposal would be assessed at the development application stage, and therefore any significant impacts would be avoided.

- *Where development or rezoning increases the need for State infrastructure, the Minister for Planning may require a contribution to the infrastructure having regard to the NSW Government State Infrastructure Strategy and equity considerations.*

This planning proposal will not result in an increase in the need for State infrastructure.

Economic Development and Employment Growth

The *Mid North Coast Regional Strategy* (DoP, 2009) (MNCRS) acknowledges that the area is an important tourist destination. As such, tourism is identified within the strategy as an area where economic development and employment growth is expected.

The amendments outlined in the planning proposal aim to provide for greater tourist and visitor accommodation diversity and experiences within the region and to take advantage of the emerging demand for rural retreat escapes and produce/paddock to plate experiences. In addition, the amendments proposed in the planning proposal seek to promote the development of museums, galleries, cafes, tea rooms, coffee houses or the like within the rural landscape to serve visitors and local residents as well as stimulate economic development and employment growth.

Environment and Natural Resources

The *Mid North Coast Regional Strategy* (DoP, 2009) (MNCRS) acknowledges that agriculture forms an important part of the Mid North Coast's economic and social base. The MNCRS also recognises that future population growth is likely to put pressure on farmland resources.

The MNCRS states that it is important to find a balance between protecting high value agricultural land and providing opportunities for development. Land use conflicts in this regard are to be identified and recognised through planning processes with the implementation of appropriate buffers. The

consideration of any potential land use conflicts generated as a result of the planning proposal amendments would be given consideration at the development assessment stage.

3.2.2 Is the planning proposal consistent with the local council's Community Strategic Plan or other local strategic plan?

Macleay Valley 2036 Community Strategic Plan June 2013

The following core values are identified in the *Macleay Valley 2036 Community Strategic Plan June 2013* (Macleay Valley 2036 CSP).

- being healthy;
- being safe;
- being wealthy; and
- being sociable.

Under each of the above core values the Macleay Valley 2036 CSP identifies matters that impact upon the core values, such as education, biodiversity, environment, earnings and self-esteem. The Macleay Valley 2036 CSP provides strategies and goals to be used to achieve the core values of the plan in the Kempsey LGA.

Permitting 'information and education facilities', 'restaurants and cafes' and 'tourist and visitor accommodation' in the RU1, RU2, RU4 and R5 zones would not result in any significant impact to the community achieving the core values of the Macleay Valley 2036 CSP.

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

The planning proposal is consistent with all applicable State Environmental Planning Policies (SEPPs). Comments are provided in *Appendix B* in regards to each SEPP.

3.2.4 Is the planning proposal consistent with applicable Ministerial Directions (S 117 directions)?

The planning proposal is inconsistent with s117 Directions 3.6 Shooting Ranges, 4.4 Planning for Bushfire Protection, and 5.4 Commercial and Retail Development along the Pacific Highway, North Coast. These inconsistencies are considered to be of minor significance. A detailed evaluation of the consistency of the planning proposal in relation to the s117 directions is provided in *Appendix C*.

3.3 Section C – Environmental, Social and Economic Impact

3.3.1 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?

It is not intended to allow development where it would impact Critical Habitat. Future proposed development would be subject to the development application and assessment process which would assess these impacts if they occur and whether they can be mitigated or not. If not the development may be refused if it is not permitted.

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

Any development associated with the construction of *'information and education facilities'*, *'restaurants or cafes'*, or *'tourist and visitor accommodation'* has the potential to result in impacts to the environment. However, as stated above, any proposed development would have to go through the development application process, including an assessment of any potential environmental impacts. It is considered that this will prevent inappropriate development and ensure any environmental impacts are managed and minimised.

3.3.3 How has the planning proposal adequately addressed any social and economic effects?

This planning proposal has been prepared taking into consideration likely social and economic effects. *Sections 1.3* outlines some of the social and economic benefits of permitting *'information and education facilities'*, *'restaurants or cafes'*, and *'tourist and visitor accommodation'* in rural and large lot residential areas.

Appendix A also provides an analysis of the net community benefit of the planning proposal – indicating a likely positive community benefit. It is therefore considered that this planning proposal has adequately addressed the social and economic effects of permitting *'information and education facilities'*, *'restaurants or cafes'* in the RU1, RU2, and RU4 and *'tourist and visitor accommodation'* in the RU1, RU2, RU4 and R5 zones.

3.4 Section D – State and Commonwealth interests

3.4.2 Is there adequate public infrastructure for the planning proposal?

The Kempsey LGA has varying levels of public infrastructure services available depending on the location. The adequacy of available public infrastructure services for any future proposed development of establishments associated with the proposal would be considered as part of the development application and assessment process.

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

State and Commonwealth public authorities have not been formally involved in this planning proposal as it is yet to receive Gateway approval. Relevant public authorities will be consulted during formal consultation and exhibition of the planning proposal, and as directed by the Gateway determination, should Planning and Environment issue a determination to proceed.

There are no issues associated with this planning proposal of interest to Commonwealth Authorities.

4. PART 4 – MAPPING

This Planning Proposal does not involve amendments to the KLEP 2013 maps.

5. PART 5 - COMMUNITY CONSULTATION

Community consultation will be undertaken following the Gateway determination. Community consultation will be undertaken in accordance with the conditions specified in the Gateway Determination, as well as Kempsey Shire Councils Public Notification Policy.

Public exhibition of the Planning Proposal would include notification on the Kempsey Shire Council website, Department of Planning and Environment website, notice in the newspapers that circulate in the LGA.

Information relating to the Planning Proposal would also be displayed at Kempsey Shire Council Customer Service Centre located on Tozer Street, West Kempsey and Libraries within the Shire.

6. PART 6 – PROJECT TIMELINE

An approximate project timeline is provided as *Table 6.1* below. It is estimated that this amendment to the KLEP 2013 will be complete by March 2016.

Council requests delegation to carry out certain plan making functions in relation to this planning proposal. Delegation would be exercised by Councils General Manager or Director Sustainable Environment.

Table 6.1 – Project Timeline

LEP Amendment Steps	Estimated Project Timing
Submit Planning Proposal to DP&E	November/December 2015
Receive Gateway determination	January/February 2016
Authority consultation - pre-exhibition*	February/March 2016
Preparation of materials for public exhibition & authority consultation	March/April 2016
Public exhibition of Planning Proposal & government authority consultation	April/May 2016
Review and consideration of submissions	May/June 2016
Council report preparation	June/July 2016
Public submissions report and draft LEP amendment to Council for adoption	July/August 2016
Submission to the department to finalise the LEP	August/September 2016
Submit request for drafting of LEP to Parliamentary Counsel's Office^	September/October 2016
Forward to the department for notification	September/October 2016
* If required	
^ If delegated	

Appendix A

Net Community Benefit Test

Net Community Benefit Test

“a. Will the LEP be compatible with agreed State and regional strategic direction for development in the area (e.g. land release, strategic corridors, development within 800 metres of a transit node)?”

Yes, the proposal is compatible with agreed State and regional strategic direction for development in the area as it will support the stimulation of economic development and employment growth within the RU1, RU2, RU4 and R5 zones with flow-on effects directed to the major town centre of Kempsey. The MNCRS acknowledges there is a need to find a balance between protecting high value agricultural land and providing opportunities for rural development. This planning proposal assists in achieving that aim by seeking to reduce agricultural land fragmentation by encouraging supplementary income streams for working rural properties capable of supporting complimentary rural tourism or commercial ventures.

“b. Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?”

No. The LEP amendment would apply to all land zoned RU1, RU2, RU4 and R5 in the Kempsey Shire LGA.

“c. Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landholders?”

The changes proposed in this planning proposal would apply to all land zoned RU1, RU2, RU4 and R5 in the Kempsey Shire LGA. As with all development application assessment, the merits of each proposed ‘information and education facility’, ‘restaurant or café’ as well as ‘tourist and visitor accommodation’ development application would be considered.

“d. Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?”

The planning proposal is not for a spot rezoning.

“e. Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?”

The LEP has the potential to facilitate permanent employment in rural and large lot residential areas within the LGA by encouraging supplementary income streams for working rural properties capable of supporting complimentary rural tourism or commercial ventures.

“f. Will the LEP impact upon the supply of residential zoned land and therefore housing supply and affordability?”

The LEP will not affect the supply of residential land.

“g. Is the existing public infrastructure (roads, rail, utilities etc.) capable of servicing the proposed site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future public transport?”

The Kempsey LGA has varying levels of public infrastructure services available depending on the location. The adequacy of available public infrastructure services for any future proposed development of said land uses would be considered as part of the development application process.

“h. Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?”

The planning proposal, if effective in its aims, is considered to result in minor changes to car distances travelled by customers, employees and suppliers. However, this will all be dependent on the scale, set-up and operating details of any proposed development. It is generally determined that the enterprises envisioned will be small scale in nature, operated and staffed by land owners, supplied in conjunction with their own needs and with a target audience to external visitors (who would be travelling to/through the area anyway) and those in the immediate surrounding locality. These factors therefore reduce the overall traffic generation, resulting in only minor changes to existing patterns. As such, the overall likely impacts in terms of greenhouse gas emissions, operating costs and road safety would be minimal.

“i. Are there significant Government investments in infrastructure or services in the area whose patronage will be affected by the proposal? If so, what is the expected impact?”

No. The planning proposal will not affect patronage of any Government investments in infrastructure or services in the area.

“j. Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?”

It is not intended to permit development on land which is not suitable. These matters would be assessed as part of the development application process and are therefore considered unlikely to result in development with significant environmental impacts or be located on land with significant constraints.

“k. Will the LEP be compatible / complementary with surrounding land uses? What is the impact on amenity in the location and wider community?”

The amendments in this planning proposal would require any new development to go through the development application process, where any impacts to amenity or land use conflicts would be considered. Therefore, it is determined that any unmanageable impact would be unlikely to occur.

“l. Will the public domain improve?”

The planning proposal will not impact the public domain.

“m. Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?”

The planning proposal has the potential to increase choice and competition within the area. However, this would ultimately depend on the development location and experience offered. Furthermore, the proposed amendments could even be considered to be pursuing an alternate market to that currently existing. Restaurants and cafes currently are permitted and occur in urban areas. The CBD restaurants and cafes are not in operation on extended hours on weekends, so it is considered unlikely conflict.

“n. If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?”

No, the planning proposal does not have the potential to result in development of a ‘centre’ in the future.

“o. What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?”

The planning proposal is being prepared after Council recognised that there is a demand within the community to permit a broader range of development types in rural and large lot residential areas. The benefits of permitting this type of development include:

- Opportunity for landowners in the RU1, RU2, and RU4 zones to benefit from financial, social and physical benefits of allowing *‘information and education facilities’*, *‘restaurants or caf  s’* and *‘tourist and visitor accommodation’* in the RU1, RU2 and RU4 zones where appropriate;
- Greater *‘tourist and visitor accommodation’* diversity and experiences within the wider area;
- A secondary source of income to be generated from the property by operating an additional business on site;
- Development that takes advantage of and preserves the rural amenity, character and environment of the locality;
- Financially capitalise on the emerging demand for the development of museums, galleries, cafes, tea rooms, coffee houses or the like, as well as tourist and visitor accommodation within the rural landscape;
- The provision of places of social and cultural importance for visitors and local residents;
- A broader range of facilities and services available in a rural context and setting;
- Reputation of a cultural identity within the rural locales;
- Younger generations being physically and financially invested in rural property;
- Opportunity for new and innovative business ventures and the resulting financial, social and economic benefits; and
- Increase in social cohesion and social inclusion in rural areas;

If the planning proposal were to not proceed at this time it would mean that the local community could not capitalise on the abovementioned benefits.

Appendix B

Consistency with State Environmental Planning Policies

No.	SEPP Title	Summary	Consistency
14	Coastal Wetlands	Seeks to ensure the State's coastal wetlands are preserved and protected.	Consistent. It is possible that development of ' <i>information and education facilities</i> ', ' <i>restaurants and cafes</i> ' as well as ' <i>tourist and visitor accommodation</i> ' may occur on land near SEPP 14 Wetlands. However, all potential impacts to wetlands would be assessed through the development assessment process.
15	Rural Landsharing Communities	Seeks to facilitate the development of rural landsharing communities committed to environmentally sensitive and sustainable land use practices.	Not applicable. The proposal is not directly relevant to rural landsharing communities.
19	Bushland in Urban Areas	Seeks to protect bushland within urban areas. Specific attention to bushland, remnant and endangered vegetation and bushland zoned or reserved for public open space.	Not applicable. SEPP 19 does not apply to the Kempsey LGA.
21	Caravan Parks	Seeks to facilitate the proper management and development of land used for caravan parks catering to the provision of accommodation to short and long term residents.	Consistent. The planning proposal is not for a caravan park and will not impact on any existing caravan parks.
26	Littoral Rainforests	Seeks to protect littoral rainforests from development.	Consistent. It is possible that development of ' <i>information and education facilities</i> ', ' <i>restaurants and cafes</i> ' as well as ' <i>tourist and visitor accommodation</i> ' may occur on land near SEPP 26 Littoral Rainforests. However, all potential impacts to SEPP 26 areas would be assessed through the development assessment process.
30	Intensive Agriculture	Requires development consent and additional requirements for cattle feedlots and piggeries.	Not applicable. The planning proposal does not provide for cattle feedlots or piggeries. In addition, ' <i>information and education facilities</i> ', ' <i>restaurant or cafes</i> ', and ' <i>tourist and visitor accommodation</i> ' land uses are generally not expected to be compatible with intensive agriculture establishments due to odour and other environmental conditions.
32	Urban Consolidation	Seeks to facilitate surplus urban land redevelopment for multi-unit housing and related development in	Not applicable. The planning proposal does not apply to urban land.

		a timely manner.	
33	Hazardous and Offensive Development	Seeks to provide additional support and requirements for hazardous and offensive development	Consistent. The planning proposal will not facilitate hazardous or offensive development.
36	Manufactured Home Estates	Seeks to facilitate the establishment of manufactured home estates as a contemporary form of residential housing.	Consistent. The planning proposal does not seek to amend the application of the Manufactured Home Estates SEPP in the RU1, RU2, RU5 or R5 zones.
44	Koala Habitat Protection	Seeks to encourage proper conservation and management of areas of natural vegetation that provide habitat for koalas	Consistent. All potential impacts to Koala Habitat areas would be assessed in accordance with the Kempsey Koala Plan of Management through the development assessment process.
50	Canal Estate Development	Prohibits canal estate development	Not applicable. The planning proposal does not facilitate canal estate development.
55	Remediation of Land	Provides a State-wide planning approach for the remediation of contaminated land.	Consistent. The planning proposal would not alter the requirements for remediation of land in accordance with SEPP 55. SEPP 55 provisions would be assessed in the development application and assessment process.
62	Sustainable Aquaculture	Seeks to encourage and regulate sustainable aquaculture development	Consistent. All potential impacts to aquaculture developments would be assessed through the development assessment process.
64	Advertising and Signage	Seeks to regulate signage (but not content) and ensure signage is compatible with desired amenity and visual character of the area.	Consistent. The planning proposal does not change the development controls in regards to advertising and signage.
65	Design Quality of Residential Flat Development	Seeks to improve the design qualities of residential flat building development in New South Wales.	Consistent. The planning proposal does not seek to amend the application of the Design Quality of Residential Flat Development SEPP.

71	Coastal Protection	Seeks to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast.	Consistent. All potential impacts to coastal zone areas would be assessed through the development assessment process.
	Affordable Rental Housing	To provide a consistent planning regime for the provision of affordable rental housing and facilitate the effective delivery of affordable housing	Consistent. The planning proposal does not seek to amend the application of the Affordable Rental Housing SEPP in the RU1, RU2, RU4 or R5 zones.
	Building Sustainability Index: BASIX 2004	The aim of this Policy is to ensure consistency in the implementation of the BASIX scheme throughout the State	Consistent. The planning proposal does not seek to amend the application of the BASIX SEPP in the RU1, RU2, RU4 or R5 zones.
	Exempt and Complying Development Codes 2008	Seeks to provide streamlined assessment process for development that complies with specified development standards.	Consistent. The planning proposal does not seek to amend the application of the Exempt and Complying Development Codes SEPP in the RU1, RU2, RU4 or R5 zones.
	Housing for Seniors or People with a Disability 2004	Seeks to encourage the provision of housing to meet the needs of seniors or people with a disability.	Consistent. The planning proposal does not seek to amend the application of the SEPP Housing for Seniors or People with a Disability in the RU1, RU2, RU4 or R5 zones.
	Infrastructure 2007	The aim of this policy is to facilitate the effective delivery of infrastructure across the State. Specifies exempt and complying development controls to apply to the range of development types listed in the SEPP.	Consistent. The planning proposal does not seek to amend the application of the Infrastructure SEPP in the RU1, RU2, RU4 or R5 zones.
	Major Development 2005	Aims to facilitate the development or protection of important urban, coastal and regional sites of economic, environmental or social significance to the State. Also to facilitate service delivery outcomes for a range of public services.	Consistent. The planning proposal does not seek to amend the application of the Major Development SEPP in the RU1, RU2, RU4 or R5 zones.

	Mining, Petroleum and Extractive Industries 2007	Seeks to provide for the proper management and development of mineral, petroleum and extractive material resources	Consistent. The planning proposal does not seek to amend the application of the Mining, Petroleum and Extractive Industries SEPP in the RU1, RU2, RU4 or R5 zones.
	Rural Lands 2008	Seeks to facilitate the orderly and economic use and development of rural lands for rural and related purposes	Consistent. The planning proposal is for rural land (in the KLEP 2013 RU1, RU2 and RU4 zones). SEPP Rural Lands requires that potential land use conflicts and any proposed mitigation measures be considered in the assessment of a development for subdivision or the erection of a dwelling on land in a rural zone, a rural residential zone or an environment protection zone. This planning proposal does not seek to change the above matters for consideration. These would be considered as part of the development assessment process for any proposed development in the RU1, RU2, RU4 or R5 zones. The Planning Proposal seeks to recognise the importance of agriculture to the local area, economically and socially and as a valued cultural, tourist and commercial resource. The addition of information and education facilities, restaurant or cafes and tourist and visitor accommodation in rural areas is primarily intended to be associated with existing agricultural based activities and is expected to have the potential of supplementing farm incomes. Enabling these types of land uses to take place on rural zoned land is expected to relieve pressure from development on non-farming land. It is also expected to strengthen and support existing services within the area.
	State and Regional Development 2011	Aims to identify State significant development and State significant infrastructure. Also to confer functions on joint regional planning panels to determine development applications.	Consistent. The planning proposal does not seek to amend the application of the SEPP State and Regional Development in the RU1, RU2, RU4 or R5 zones.

Appendix C

Consistency with Section 117 Directions

Direction	Objectives	Application	Consistency
1. Employment and Resources			
1.1 Business and Industrial Zones Issued 1 July 2009	- To encourage employment growth in suitable locations - To protect employment land in business and industrial zones, and support the viability of identified strategic centres.	Applies when a planning proposal is prepared that affects land within an existing or proposed business or industrial zone (includes alteration of boundary of any existing business or industrial zone)	Not applicable. The planning proposal is not for land in a business or industrial zone.
1.2 Rural Zones Issued 1 July 2009	To protect the agricultural production value of rural land.	Applies when a planning proposal is prepared that affects land within an existing or proposal rural zone (includes alteration of any existing rural zone boundary)	Consistent. This planning proposal will not alter the zoning of any rural land. The proposed amendments are to allow permissibility of <i>'information and education facilities', 'restaurant or cafes'</i> , as well as <i>'tourist and visitor accommodation'</i> in the RU1, RU2 and RU4 rural zones. Given that these land uses are commercial in nature there will not be an overall increase in the residential or dwelling density in these zones.
1.3 Mining, Petroleum Production and Extractive Industries Issued 1 July 2009	To ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	Applies when planning proposal is prepared that would prohibit or restrict the mining or potential development of coal, other minerals, petroleum production or obtaining extractive minerals of State or regional significance permitting incompatible land use.	Consistent. The planning proposal will not prohibit or restrict the mining or future extraction of State or regionally significant coal, other minerals, petroleum and extractive materials.

1.4 Oyster Aquaculture Issued 1 July 2009	To protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.	Applies to Priority Oyster Aquaculture Areas as identified in the NSW Oyster Industry Sustainable Aquaculture Strategy (2006)	Not applicable. The planning proposal is not for land located in a priority Oyster Aquaculture Area as identified in the <i>NSW Oyster Industry Sustainable Aquaculture Strategy Second Edition</i> (NSW Department of Primary Industries, 2014).
1.5 Rural Lands Issued 1 July 2009	To protect the agricultural production value of rural land and facilitate the orderly and economic development of rural land.	Applies to all planning proposals to which State Environmental Planning Policy (Rural Lands) 2008 applies	Consistent. The planning proposal is not inconsistent with the Rural Planning Principles contained in Clause 7 of SEPP Rural Lands. The intention of the Planning Proposal is not to prejudice or threaten existing productive agricultural land or create land use conflicts but to encourage supplementary income streams for working rural properties capable of supporting complimentary rural businesses where compatible. The proposed amendment would facilitate development (dictated by merit assessment and market demand) that takes advantage of and preserves the rural amenity, character and environment of the locality, thus adding to the overall range of facilities and services available in the rural area and achieving resulting financial, social and economic benefits.
2. Environment and Heritage			
2.1 Environment Protection Zones Issued 1 July 2009	To protect and conserve environmentally sensitive areas.	Applies when a planning proposal is prepared.	Consistent. The planning proposal will not result in impacts to environmentally sensitive areas.
2.2 Coastal protection Issued 1 July 2009	To implement the principles of the NSW Coastal Policy.	Applies to the Coastal Zone as defined in the Coastal Protection Act 1979.	Consistent. Some land affected by this planning proposal is located within the coastal zone. This planning proposal is consistent with the principles of the NSW Coastal Policy as the visual impacts of any proposed ‘<i>information and education facilities</i>’, ‘<i>restaurant or cafes</i>’, and ‘<i>tourist and visitor accommodation</i>’ development would be assessed through the development assessment process.

2.3 Heritage Conservation Issued 1 July 2009	To conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	To conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	Consistent. KLEP 2013 contains provisions that are consistent with this Direction. This Planning Proposal does not seek to change those provisions or alter how they apply to any future development applications.
2.4 Recreation Vehicle Areas Issued 1 July 2009	To protect sensitive land or land with Significant conservation values from adverse impacts from recreation vehicles.	Limits the development of land for the purpose of a recreational vehicle area.	Not applicable. The planning proposal does not relate to development of land for the purpose of a recreational vehicle area.
3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones Issued 1 July 2009	- To encourage a variety and choice of housing types to provide for existing and future housing needs - To make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and - To minimise the impact of residential development on the environment and resource lands.	Applies when a planning proposal affects land within an existing or proposed residential zone (including the alteration of any existing zone boundary) or any other zone in which significant residential development is permitted or proposed to be permitted.	Not applicable. The planning proposal does not relate to land within an existing or proposed residential zone.

3.2 Caravan Parks and Manufactured Home Estates Issued 1 July 2009	- To provide for a variety of housing - types and opportunities for caravan parks and manufactured home estates	Applies when a planning proposal is prepared. Does not apply to Crown land reserved or dedicated for any purposes under the Crown Lands Act 1989 (except Crown land reserved for accommodation purposes) or land dedicated or reserved under the NP&W Act 1974.	Not applicable. The planning proposal does not relate to any existing or proposed caravan parks or manufactured home estates.
3.3 Home Occupations Issued 1 July 2009	To encourage the carrying out of low-impact small businesses in dwelling houses.	Planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.	Not applicable. The planning proposal does not relate to operation of small businesses in dwelling houses.
3.4 Integrating Land Use and Transport Issued 1 July 2009	- To ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts: - improve access to housing, jobs and services by walking, cycling and public transport, - increase transport choice and reduce travel demand and reducing dependence on cars, - reduce travel demand including distances travelled, especially by car, - support the efficient and viable operation of public transport services, and	Applies to planning proposals that create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.	Not applicable. The planning proposal will not create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes. Furthermore, the Planning Proposal does not affect or alter existing transport choices that result in changes to access, transport, car travel, public transport or the movement of freight.

	• Provide for the efficient movement of freight.		
3.5 Development Near Licensed Aerodromes Issued 1 July 2009	• To ensure the effective and safe operation of aerodromes • To ensure that the operation of aerodromes is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity. • To ensure development for residential purposes or human occupation incorporates appropriate mitigation measures	Applies to a planning proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.	Consistent. This planning proposal does affect land near the Kempsey Airport. Whilst it would create the opportunity for new types of development to be located on rural land near the airport, any potential for impacts or land use conflict would be considered as part of the development assessment process.
3.6 Shooting Ranges Issued 16 February 2011	• To maintain appropriate levels of public safety and amenity and reduce land use conflict when rezoning land adjacent to an existing shooting range,	Applies to a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/or adjoining an existing shooting range.	Inconsistent but of Minor Significance. This planning proposal does affect land near the both the Kempsey Clay Target Club site (191 Armidale Road) and the Macleay Valley Regional Shooting Complex (Rifle Range Road). The Planning Proposal would create the opportunity for new development types to be located on rural land near both of these facilities – however development of the adjoining rural land may not eventuate. Any potential for impacts or land use conflict would be assessed as part of the development assessment process. As such, the inconsistency is suggested to be of Minor Significance.

4. Hazard and Risk			
4.1 Acid Sulfate Soils Issued 1 July 2009	To avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	Applies to planning proposal on land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.	Consistent. There are areas of land within the RU1, RU2, RU4 and R5 zones in the Kempsey LGA that are affected by acid sulphate soils (ASS). Any future proposed development resulting from the planning proposal would be subject to the development assessment process with potential impacts to ASS considered in accordance with Clause 7.1 of KLEP 2013.
4. 2 Mine Subsidence and Unstable Land Issued 1 July 2009	To prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	Applies to planning proposal on land within a mine subsidence district or that has been identified as unstable in a study, strategy or other assessment	Not applicable. The planning proposal does not relate to land within a mine subsidence district or that has been identified as unstable in a study, strategy or other assessment.
4.3 Flood Prone Land Issued 1 July 2009	- To ensure that development of flood prone land is consistent with the <i>NSW Government's Flood Prone Land Policy</i> and the principles of the <i>Floodplain Development Manual</i> 2005; and - To ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	Applies to a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.	Consistent. This planning proposal does affect flood prone land within the LGA. Any application for proposed ' <i>information and education facilities</i> ', ' <i>restaurant or cafés</i> ', or ' <i>tourist and visitor accommodation</i> ' would require consideration in accordance with Clause 7.3 of KLEP 2013 to ensure development is compatible with the flood risk and flood hazard of the area. The proposed permissible land uses are commercial in nature and not for the purpose of permanent habitation. In times of suspected flooding it is unlikely these establishments would be frequented and as such would not result in an increase in demand for rescue services during flooding events.

4.4 Planning for Bushfire Protection Issued 1 July 2009	To protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas and encourage sound management of bush fire prone areas.	Applies when Council prepares draft LEP that affects, or is in proximity to land mapped as bushfire prone land.	Inconsistent but of minor significance. Large areas of land zoned RU1, RU2, RU4 and R5 in the Kempsey LGA are identified as being bushfire prone. This would be considered as part of the development application process for any proposed ‘<i>information and education facility</i>’, ‘<i>restaurant or café</i>’, or ‘<i>tourist and visitor accommodation</i>’ land use development. There has been no consultation as yet with the NSW Rural Fire Service. Consultation will be undertaken with the NSW Rural Fire Service regarding this Planning Proposal following the Gateway determination and prior to community consultation (if it is supported by DP&E) Given similar amendments have been supported in other areas in NSW it is likely any concerns the RFS may have can be addressed.
5. Regional planning			
5.1 Implementation of Regional Strategies Issued 1 July 2009	To give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	Applies to: Far North Coast, Lower Hunter, Illawarra, South Coast, Sydney–Canberra Corridor, Central Coast and Mid North Coast	Consistent. This planning proposal is consistent with the Mid North Coast Regional Strategy as it aims to find balance between protecting high value agricultural land whilst providing other avenues opportunities for economic development and employment growth. Furthermore, the proposal allows for the establishment of places of social and cultural importance to foster social cohesion and social inclusion in the rural context, as well as for the provision of a broader range of facilities and services to provide for greater diversity and experiences in this environment.
5.2 Sydney Drinking Water Catchments Issued 3 March 2011	To protect water quality in the Sydney drinking water catchment.	Applies to; Blue Mountains, Campbelltown, Cooma Monaro, Eurobodalla, Goulburn, Mulwaree, Kiama. Lithgow, Oberon, Palerang, Shoalhaven, Sutherland, Wingecarribee, Wollondilly, Wollongong.	Not applicable. The planning proposal does not relate to land within the Sydney drinking water catchment.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast Issued 1 July 2009	To protect, provide certainty and reduce land use conflict associated with agricultural land	Applies to: Ballina, Byron Shire Council, Kyogle, Lismore City Council, Richmond and Tweed.	Not applicable. Does not apply to the Kempsey LGA.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	To manage commercial and retail development along the Pacific	Applies to council areas on the North Coast that the Pacific Highway traverses between	Inconsistent but of minor significance. This planning proposal does affect land in the vicinity of the existing and/or proposed alignment of the Pacific Highway with commercial/retail land uses (<i>‘information and</i>

Issued 29 November 2009	Highway.	Port Stephens Shire Council and Tweed Shire Council, inclusive.	<i>education facilities', 'restaurant or cafes', 'tourist and visitor accommodation')</i> proposed to be permitted with consent in the area identified. It is assumed to be highly unlikely that a significant number of these development types would be proposed in the RU1, RU2, RU4 and R5 zones. However, any application for development within this corridor would be subject to the development assessment process at which the impacts of safety and efficiency of the highway would be considered. Furthermore, upon the receipt of any such application referral would be made to the Roads and Maritime Services for comment given the Pacific Highway's importance and designation as a classified road. It is therefore determined that the inconsistency with this Section 117 Direction is of minor significance.
5.8 Second Sydney Airport: Badgerys Creek Issued 1 July 2009	To avoid incompatible development in the vicinity of any future second Sydney Airport at Badgerys Creek.	Applies to land shown within the boundaries of the proposed Badgerys Creek airport site.	Not applicable. Does not apply to the Kempsey LGA.
6. Local Plan Making			
6.1 Approval and Referral Requirements Issued 1 July 2009	To ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Applies when planning proposal prepared. A planning proposal must minimise or prohibit provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority or the nomination of designated development.	Consistent. The planning proposal does not introduce any additional requirements for concurrence with other Government agencies.
6.2 Reserving of Land for Public Purposes Issued 1 July 2009	To facilitate the provision of public services and facilities by reserving land for public purposes and the removal of reservations of land for public purposes where the land is no longer required for acquisition.	Applies when a planning proposal is prepared. A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority.	Not applicable. The planning proposal does not create or remove any land dedicated for a public purpose.
6.3 Site Specific Provisions	To discourage unnecessarily restrictive	A planning proposal to amend an environmental planning	Not applicable.

Issued 1 July 2009	site specific planning controls.	instrument must either: • allow that land use to be carried out in the zone the land is situated on, or • rezone the site to an existing zone that allows that land use without imposing any development standards, or • allow that land use on the relevant land without imposing any development standards in addition to those already contained in the principal environmental planning instrument being amended.	The planning proposal does not contain site specific controls. The controls proposed would apply to all land zoned RU1, RU2, RU4 and R5.
7. Metropolitan planning			
7.1 Implementation of the Metropolitan Plan for Sydney 2036 Issued 1 February 2011	To give legal effect to the vision, transport and land use strategy, policies, outcomes and actions contained in the Metropolitan Plan for Sydney 2036.	Does not apply to the Kempsey local government area.	Not applicable. The planning proposal does not relate to land identified in the Metropolitan Plan for Sydney 2036.