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Department Generated Correspondence (Y)

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Our ref: PP_2011_KEMPS_003_00 (11/11552)
Your ref: T5-110 PK

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

Dear Mr Rawlings,

Re: Planning Proposal to rectify an error in Kempsey LEP 1987 Amendment No 110 that listed an incorrect DP number, and specify the new definitions inserted by that instrument to apply only to a single development location

I am writing in response to your Council's letter dated 30 June 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 rectify an error in Kempsey LEP 1987 Amendment No 110 that listed an incorrect DP number, and specify the new definitions inserted by that instrument to apply only to a single development location.

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

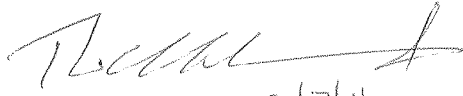
The Department is willing to support the approach proposed by Council in this instance. However, it is recommended that Council consider zoning the site appropriately in the preparation of its comprehensive Standard Instrument LEP. In addition, to ensure there is a greater level of certainty associated with the uses on site in the interim and that the proposed serviced apartment component of the development does not become a default residential apartment building, the proposed use of the term 'serviced apartments' will be qualified further as part of this planning proposal to *'serviced apartments associated exclusively with the operation of the Misty Mountain Health Retreat'*. Council is also encouraged to consider using the newly introduced Standard Instrument definition of *'Eco-tourist facility'* to better reflect the uses contained within the Misty Mountain Health Retreat site. Council should discuss this approach further with the Department's Regional Planning Team prior to proceeding with the planning proposal.

The amending Local Environmental Plan (LEP) is to be finalised within 6 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 Jenny Johnson of the Regional Office of the Department on 02 6641 6600.

Yours sincerely,



21/7/11

Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal

Gateway Determination

Planning Proposal (Department Ref: PP_2011_KEMPS_003_00): to rectify an error in Kempsey LEP 1987 Amendment No 110 that listed an incorrect DP number, and specify the new definitions inserted by that instrument to apply only to a single development location.

I, the Deputy Director General, Plan Making & Urban Renewal as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Kempsey Local Environmental Plan 1987 to rectify an error in Kempsey LEP 1987 Amendment No 110 that listed an incorrect DP number, and specify the new definitions inserted by that instrument to apply only to a single development location should proceed subject to the following conditions:

1. Council will amend the definition of 'serviced apartments' to instead refer to 'serviced apartments associated exclusively with the operation of the Misty Mountain Health Retreat' when proceeding with the planning proposal.
2. 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 **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 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Forests NSW

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.
4. 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).
5. The timeframe for completing the LEP is to be **6 months** from the week following the date of the Gateway determination.

Dated 21st day of July 2011.



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