

**15 COMMUNITY STRATEGIC AND MANAGEMENT PLAN REPORTS**

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

**1.1 Planning Proposal for Northbound South Kempsey Highway Service Centre File: T5-118 RZ-11-3**

1211	RBP
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**SUMMARY**

Reporting that exhibition of a Planning Proposal, known as Draft Kempsey Local Environmental Plan (1987) (KLEP 1987) Amendment No 118, to enable a Highway Service Centre on Lot 2454 DP610363 in South Kempsey has been completed.

**2013. 129 RESOLVED:**

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

**That Draft Kempsey LEP 1987 Amendment No 118 for Lot 2454 DP610363 be forwarded to the Department of Planning and Infrastructure requesting the Minister to Make the Plan, pursuant to the provisions of the Environmental Planning and Assessment Act 1979.**

**A Division resulted in the following votes.**

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

<b>Campbell</b>	<b>F</b>	<b>Green</b>	<b>F</b>	<b>McGinn</b>	<b>F</b>	<b>Morris</b>	<b>F</b>
<b>Patterson</b>	<b>F</b>	<b>Saul</b>	<b>F</b>	<b>Shields</b>	<b>F</b>	<b>Williams</b>	<b>F</b>

**RECOMMENDATION IMPLICATIONS**

**Environmental:** Preliminary investigations and studies indicate that the land could accommodate a Highway Service and mitigation of negative environmental impacts is possible.

**Social:** A positive social outcome is envisaged from the development of a Highway Service Centre for the northbound side of the Southern Interchange. It will contribute to the social wellbeing of the shire by creating local employment options. This will assist with maintaining the vitality of the community in Kempsey Shire.

**Economic (Financial):** It is considered that a Highway Service Centre in this location will have a positive economic impact, not only in job creation prospects. The location on the northbound side, near the Slim Dusty Centre, adds to the opportunities for drivers to continue on through Kempsey and the corridor through to Frederickton.

**Policy or Statutory:** The proposed rezoning is consistent with relevant statutory and policy considerations.

## **REPORT DETAILS**

On 20 December 2011 Council resolved to seek a Gateway Determination for a Planning Proposal to enable a highway service centre on Lot 2454 DP610363 see attached Council Report **(Appendix A - Page SE1)**. A revised locality map is appended **(Appendix B - Page SE10)**.

The Department of Planning and Infrastructure (DoPI) issued a Gateway Determination on 2 February 2012 advising that the LEP Amendment could proceed. A copy of the Determination is appended **(Appendix C - Page SE11)**.

### **Public Exhibition and Consultation**

Consultation and Public Exhibition of Draft KLEP 1987 Amendment No 118 occurred in accordance with the requirements of the Gateway Determination.

Draft KLEP Amendment No 118 was placed on public exhibition from 24 April 2012 to 22 May 2012.

NSW Rural Fire Service comments were sought and placed on public exhibition in accordance with the requirements of the Gateway Determination. The response noted that the NSW Rural Fire Service has no objection to the proposal and no changes to the Planning Proposal were required. A copy of the NSW Rural Fire Service comments is appended **(Appendix D - Page SE15)**.

### **Draft State Environmental Planning Policy (Competition) 2010**

A matter raised in two submissions is that a Highway Service Centre on the Western Side of the Southern Interchange will negatively affect the viability and success of the Highway Service Centre which has been approved on the Eastern Side of the Southern Interchange.

The DoPI has prepared a Consultation Draft in 2010, State Environmental Planning Policy (Competition) 2010. The draft is in response to Government initiatives to ensure that the planning system does not unnecessarily inhibit opportunities for economic growth through effective competition. Although the Draft SEPP has not proceeded, presumably due to the reforms occurring to the NSW Planning System, the Draft SEPP provisions as that relate to Council's consideration of the Planning Policy include:

#### ***10 Restrictions on number of particular types of retail premises***

*(1) A restriction in an environmental planning instrument or development control plan on the number of a particular type of retail premises in any commercial development, or in any particular area, does not have effect.*

*(2) This clause applies to a restriction imposed expressly or by necessary implication, but does not apply to a restriction that arises because of development controls relating to the scale of development or any other aspect of development that is not merely the number of particular types of premises.*

#### ***11 Restrictions on proximity of particular types of retail premises***

*(1) A restriction in an environmental planning instrument or development control plan on the proximity of a particular type of retail premises to other retail premises of that type does not have effect.*

*(2) This clause applies to a restriction imposed expressly or by necessary implication, but does not apply to a restriction that arises because of*

*development controls relating to the scale of development or any other aspect of development that is not merely the proximity of particular types of premises.*

Although a Development Application has been approved, the Highway Service Centre on the eastern side of the Highway does not yet exist. There is no certainty that the Development will proceed, irrespective of whether another Highway Service Centre is proposed on the Western side of the highway.

The above draft provisions are based on a Review Report prepared by the DoPI titled *Promoting Economic Growth and Competition through the Planning System – Review Report April 2010*. That document outlines the principles upon which the planning process should be allowed to regulate trade and commercial development. The introduction on page 2 states (“...regulation by the planning system should allow equal opportunities for entry into the land market, subject to zoning restrictions. There should not be any advantage or protection provided to existing businesses and there should also be no need for planners to make assessments regarding the commercial viability of a development proposal. The viability of a business is a commercial decision to be made by the business itself based on its own assessment of market demand.”)

Matters relating to whether the area can accommodate two Highway Service Centres are market decisions and are not a relevant consideration for the rezoning. The RMS and the DoPI have both advised that there are no restrictions on the number of Service Centres that can be provided at the Southern Interchange. As such, Council is able to accept and proceed with the Planning Proposal on the subject land.

#### **Public Exhibition**

The Planning Proposal was advertised from 24 April 2012 to 22 May 2012 with five submissions received that may be summarised as follows (Appendix E - Page SE17):

<b>Issues</b>	<b>Response</b>
<b>Roads &amp; Maritime Services</b>	
1 Generally proposal has not adequately considered the potential impacts of the proposed HSC on the South Kempsey Interchange and RMS would not support the proposed rezoning until further investigation has been undertaken.	1 The applicant has addressed all of the RMS’s concerns and the RMS has advised in a letter dated 4 February 2013, “RMS has undertaken a review of the Traffic Impact Assessment and accepts that the subject site has the potential to accommodate a Highway Service Centre (HSC) development in accordance with RMS requirements. RMS supports the progression of this planning proposal's intention to amend the Kempsey LEP to enable consideration of the site for a HSC development with the consent of Kempsey Shire Council”. Copy of revised response is appended ( <u>Appendix F - Page SE42</u> ).
2 Proposal should consider the current and future traffic volumes for the service road	2 Resolved - see above.

<b>Issues</b>	<b>Response</b>
and provide an analysis of the key intersections to demonstrate that traffic generated by the development will not adversely impact on the capacity, safety or efficiency of those intersections.	
3 The existing proposal should consider existing and future trends for the mix of heavy vehicle (HV) types likely to use the facility.	3 Resolved - see above.
4 Arrangement of heavy vehicle spaces should have consideration of the manoeuvring paths of these vehicles.	4 Resolved – see above.
5 The proposed HSC concept design has not considered appropriate facilities to accommodate buses and coaches.	5 Resolved – see above.
<b>Office of Environment and Heritage</b>	
Supports the proposal subject to the following:	
1 Implementation of the recommendations made by the ecological consultant (Lewis Ecological).	1 The applicant has demonstrated that OEH requirements can be met which will be addressed in further detail at DA stage.
2 Compensatory Koala Habitat trees and nest boxes being placed adjacent to mapped koala habitat in the north west of the site to replace the four or five isolated hollow bearing trees that may be removed.	2 See Point 1 above.
3 Installation of fauna proof fencing along the western boundary of the site.	3 See Point 1 above.
4 Completion of Stage 2 ecological assessment (landscaping plan) as required by the gateway determination once detailed design work is completed.	4 See Point 1 above.
5 Receipt of the letter expected from the local Aboriginal community confirming the site	5 The letter has not been provided, however, the Aboriginal Heritage Assessment has been completed



### **Issues**

has no cultural heritage value.

### **Sean Davis McDonald Kempsey**

Objection for the following reasons:

- 1 Oversupply creating a negative impact on the future success of the RMS supported and designated service centre. This proposal has created confusion in the market that is resulting in the key petrol providers and other end users not willing to invest substantial capital due to the fact that there is no certainty about future business. By supporting this rezoning Council will be jeopardizing vital investment and reducing employment opportunities. Eastern HSC will employ 250 people and these jobs will be at risk if the Western HSC rezoning goes ahead.
- 2 Delay in Opening – rezoning process has continued to create significant delays in the ability for landowners, developers and end users to commit capital.
- 3 Job redundancies – currently employ 150 people and anticipate 30% decline in turnover once the highway bypass opens.
- 4 State Public Funded Infrastructure – in the form of

### **Response**

with the relevant members of the Local Aboriginal Land Council, and they raised no issues with respect to Heritage matters.

- 1 This is a marketing decision and is not a relevant consideration for the rezoning. The RMS and the DoPI have both advised that there are no restrictions on the number of Service Centres that can be provided at the Southern Interchange. As such, Council is able to accept an application on the subject land. Council has determined to proceed with the planning proposal on this basis. The Department of Planning has prepared a Consultation Draft in 2010, State Environmental Planning Policy (Competition) 2010. The Draft SEPP provisions note that these matters are not matters for consideration in assessing proposed developments. The same general principles apply to rezoning applications. See a discussion of the Consultation Draft SEPP above.
- 2 The Development Application for the Eastern HSC has been approved. Council is unable to prevent developers from submitting requests for rezonings and should deal with all applications in an open and transparent manner. In the absence of a Highway Service Centre Strategy, this is best achieved by assessing the merits of the proposal through the rezoning process.
- 3 The DA for the eastern service centre has been determined since April 2012. No construction work has yet to start on the Development. Both service centres are effectively approved by the RMS. Having a service centre on both north and southbound sides of the highway, has the potential to attract more customers.
- 4 The interchange has been constructed to support a number of

### Issues

the interchange and associated works has been constructed to accommodate the RMS supported and designated service centre. Public money will be wasted and its investment will not be realised should the development on the Western side cause the service centre not to proceed or proceed in a significantly reduced form.

- 5 Tourism information booth which is on offer, free of charge to Council on the designated service centre will direct north and south bound traffic towards facilities in and around Kempsey, i.e. the Slim Dusty Centre.

### Stevens Group and Galban Pty Ltd – Identical submissions

Request Council to reject the proposed rezoning of the western site for the following reasons:

- 1 The site is unsuitable for the purpose of an HSC for reasons relating to:  
  
Flooding and stormwater drainage, Topography, Bush fire Hazard, Access, traffic, parking and manoeuvring, Potential indigenous archaeology, Noise impacts, Potential Impacts on Native Flora and Fauna; and Water and sewer servicing.
- 2 Economic Impact on Eastern HSC.
- 3 Social Impact – Employment opportunities would be reduced.

### Response

factors, one of which is the Eastern HSC. The Western HSC was discussed with the RMS, approximately 2 years ago, whereby advised that the southern interchange could accommodate more than one HSC. The RMS have advised in their most recent submission that they support the proposal.

- 5 Noted.

- 1 The applicant was requested to provide additional information to address the matters raised in submissions. The relevant agencies have not raised any objections to the proposal on any of these grounds. Amendments to the design and additional information were provided to address stormwater issues. Water and sewer have been addressed and are discussed in detail in a separate section of this report.

- 2 See comments above with respect to Consultation Draft for SEPP Competition 2010.  
  
With respect to the traffic report, a revised traffic report has been prepared. The RMS has endorsed this traffic assessment, and this is considered acceptable to Council.

- 3 Highway Service Centres will create employment and a net increase may result which would be a positive social impact.

<b>Issues</b>	<b>Response</b>
4 Flooding and Stormwater Drainage.	4 The applicant has provided more detailed information with respect to the hydrology of the site and the site is not identified as flood prone. At this time is considered that a detailed study is not necessary.  The planning proposal identified these EECs and has provided several management options. These will be refined at the Development Application stage. OEH does not have any objections to the LEP based on the existence of EECs.
5 Topography – Based on information in Planning Proposal, significant filling of the site would be required.	5 Updated Engineering details have been supplied and it is considered that it is feasible to accommodate required gradients.

It is considered that the applicant has provided Council with sufficient information to indicate that the proposal is feasible on the subject land. Further detailed information will be required to be provided with the Development Application for the Highway Service Centre.

Water

Council would be aware that funding arrangements have not been put in place to facilitate the supply of portable water to serve the development.

Sewer

The applicant will be required to provide for the on-site treatment and disposal of effluent, the details of which should be required at DA. A preliminary assessment indicates that on-site disposal is feasible.

EXTRACT FROM MINUTES OF THE ORDINARY MEETING OF KEMPSEY SHIRE COUNCIL HELD 20 DECEMBER 2011

**1.7 Development Approvals & Regulatory Planning Functions**

**1.7.1 Planning Proposal for Northbound South Kempsey Highway Service Centre**

File: T5-118 RZ-11-3 {Folio No. 465083} ✓

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RBP

### SUMMARY

Reporting that Council has received a Planning Proposal seeking to amend Kempsey Local Environmental Plan (KLEP) 1987, to enable a Highway Service Centre at South Kempsey.

**011. 521 RESOLVED:**

*Moved: Cl. Walker  
Seconded: Cl. Green*

- A That planning proposal T5-118 be forwarded to the Department of Planning and Infrastructure for a Gateway Determination pursuant to Section 56 of the Environmental Planning and Assessment Act 1979.**
- B That Lot2452 DP532345 be included in the request to the Department of Planning and Infrastructure for a Gateway Determination.**

**A Division resulted in the following votes.**

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

<b>Bowell</b>	<b>F</b>	<b>Campbell</b>	<b>F</b>	<b>Green</b>	<b>F</b>	<b>Gribbin</b>	<b>F</b>	<b>Saul</b>	<b>F</b>	<b>Snowsill</b>	<b>F</b>
<b>Sproule</b>	<b>F</b>	<b>Walker</b>	<b>F</b>								

### RECOMMENDATION IMPLICATIONS

**Environmental:** Preliminary investigations and studies indicate that the land could accommodate a Highway Service and mitigation of negative environmental impacts is possible. The environmental implications of adjoining additional land to the south of the subject land in the planning proposal have not been assessed.

**Social:** A positive social outcome is envisaged from the development of a Highway Service Centre for the northbound side of the Southern Interchange. It will contribute to the social wellbeing of the shire by creating local employment options. This will assist with maintaining the vitality of the community in Kempsey Shire.

**Economic (Financial):** It is considered that a Highway Service Centre in this location will have a positive economic impact, not only in the job creation prospects. The location on the northbound side, near the Slim Dusty Centre, adds to the opportunities for drivers to continue on through Kempsey and the corridor through to Frederickton.



**Policy or Statutory:** *The proposed rezoning is consistent with relevant statutory and policy considerations.*

## **REPORT DETAILS**

Council, as a Relevant Planning Authority (RPA), has received a planning proposal, prepared by Wakefield Planning, seeking an amendment to the Kempsey Local Environmental Plan (KLEP) 1987. The proposal is to amend Schedule 2 of Clause 35 of the KLEP 1987, to permit a Highway Service Centre with consent on Lot2454 DP610363 (subject land) **(Appendix D - Page SE4)**.

The subject land is zoned 1(d) Rural Investigation zone, which currently prohibits service stations, tourist facilities, commercial premises, recreation facilities and refreshment rooms, all of which are landuses that may be associated with a Highway Service Centre.

## **Background**

### **Need for a Planning Proposal**

The South Kempsey Interchange has been identified in Section 117 Ministerial Planning Direction 5.4 *Commercial and Retail Development along the Pacific Highway*. The subject land is zoned 1(d) Rural Investigation zone, which currently prohibits a range of landuses which encompass the scope of a Highway Service Centre, as defined within the Standard Instrument Order 2006.

Stage 1 South Kempsey to Frederickton, of the Pacific Highway Bypass is due for completion in 2013. An essential component of the Kempsey Shire Council Pacific Highway Bypass Strategy (2010) is the establishment of a Highway Service Centre at the South Kempsey Interchange. While the amendment could be incorporated into the Comprehensive Standard LEP which is currently being prepared by Council, the uncertain timeframes associated with that process, and the urgency of Council being prepared for the consequences of the Bypass, justify a separate rezoning.

### **Adjoining land to the South and North of the Subject Land**

The subject land is located within a finger of land which stretches from the Southern Interchange of the future Pacific Highway alignment, up to and including the Slim Dusty Centre along the existing Pacific Highway Alignment **(Appendix E - Page SE5)**. It is considered that the land to the south of the subject land which currently contains a recycling business (also zoned 1(d) Rural Investigation zone) should be included in this proposed LEP Amendment to make a Highway Service Centre permissible with consent on that land as well. The incorporation of this land is critical in consolidating a Gateway for the South Kempsey Area, as well as achieving the potential for a better outcome for a suitable Highway Service Centre space.

In the longer term, it is considered that all the land indicated on the attached plan extending northwards from the Southern Interchange north to the Slim Dusty Site, be rezoned to SP3 Special Purpose Tourist in the Standard LEP currently being prepared **(Appendix F - Page SE6)**.

### **Relationship to Strategic Planning Framework**

The following is the relevant strategic planning framework applicable to the planning proposal.

North Coast Regional Environmental Plan 1998 (NCREP)

Section 39 of the NCREP States:

*39 Plan preparation—retail, commercial or business activities*

*A draft local environmental plan should not provide for the establishment of significant retail, commercial or business development unless:*

- (a) the expansion is adjacent to or adjoins the existing commercial centre, or*
- (b) If the expansion is not adjacent to or adjoining the existing centre, that development is in accordance with a commercial/retail expansion strategy prepared by the council, published for public discussion and:
 
  - (i) be available, without charge, for public inspection and comment at the office of the council during normal office hours, and*
  - (ii) be forwarded by the council for their information to such public authorities as, in the opinion of the council, have responsibilities reasonably requiring them to be aware of the strategy.**

This LEP amendment has been prepared as a direct result of the South Kempsey Interchange being identified as a suitable location for a Highway Service Centre under Ministerial 117 Direction 5.4. In addition, the *Kempsey Shire Council Bypass Strategy and Background Issues Paper*, identifies the establishment of a Highway Service Centre as an action to mitigate negative impacts of the Bypass in Kempsey. It is considered that the proposal is consistent with that Ministerial Direction, which overrides the provisions of the NCREP in this instance.

Mid North Coast Regional Strategy

The *Mid North Coast Regional Strategy* (MNCRS) outlines the general principals and objectives for the management of sustainable growth in the region to 2031. The Planning Proposal is located within the identified Growth Areas Map 6, and is identified as proposed employment lands. The additional land to the south of the subject land is also identified as being within this area.

Section 117 Ministerial Directions

The planning proposal considers the relevant 117 directions.

*Direction No 1.1 Business and Industrial Zones* - No business or industrial zones are proposed or affected. Overall the proposal is considered of minor significance with respect to existing business or industrial lands within Kempsey. Any inconsistency with this direction is therefore justified, by inclusion of South Kempsey Interchange as a suitable location for a Highway Service Centre.

*Direction No 1.2 Rural Zones* - The proposal would not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. It would not increase the permissible density of land within a rural zone. The use proposed would be of a commercial nature however the use of rural land for a Highway Service Centre is supported by the Mid-North Coast Regional Strategy and the Section 117 Directions. Inconsistency with this specific direction is therefore justified.

*Direction No 1.3 Mining, Petroleum Production and Extractive Industries* - No existing mines, petroleum production operations or extractive industries are affected by the planning proposal.

*Direction No 1.5 Rural Lands* - The proposal is consistent with this Direction as the proposal is consistent with the relevant regional strategy.

*Direction No 2.1 Environment Protection Zones* - No environmental protection zones or land identified for environmental protection in a LEP are affected. The proposal is not inconsistent with this direction.

*Direction No 2.3 Heritage Conservation* - Heritage conservation matters are addressed in the principal LEP applying to the land. No changes to heritage conservation provisions are proposed. An archaeological review of the land has been conducted (attached to this proposal) which indicates that the land is not sensitive with respect to likely Aboriginal objects and development can proceed. The site has not been identified as being of heritage significance to Aboriginal culture and people.

*Direction No 3.4 Integrating Land Use and Transport* - The development is adjacent to a main transport route on the current Pacific Highway and, located at the South Kempsey Interchange of the new Pacific Highway alignment. The proposal would facilitate the efficient movement of freight. It is therefore considered consistent with this direction.

*Direction No 4.3 Flood Prone Land* - The land is not within a flood planning area identified within Kempsey. The preliminary engineering appraisal conducted for the land identifies the 1% AEP event. The concept design for the proposal takes this event and an appropriate freeboard into consideration. Detailed site planning following a positive Gateway Determination would ensure that the 1% AEP event is satisfactorily managed. This approach would ensure consistency with the Floodplain Development Manual 2005.

*Direction No 4.4 Planning for Bushfire Protection* - The land is partially affected by bushfire prone land as shown on the relevant map. The Direction requires consultation with the Commissioner of the NSW Rural Fire Service following receipt of the Gateway Determination.

The planning proposal has had regard to *Planning for Bushfire Protection 2006*, as outlined in the attached Preliminary Bushfire Review. A perimeter road outside the site traverses the western edge of the site. Internal site design provides for appropriate asset protection zones noting the type of development proposed and the relevant bushfire risk.

Water supply for fire fighting purposes would be provided as set out in the servicing report.

Preliminary consultation has been undertaken with the NSW Rural Fire Service that has advised of matters to be addressed in the preliminary bushfires study.

*Direction No 5.1 Implementation of Regional Strategies*- The proposal is consistent with the *Mid-North Coast Regional Strategy* and is subsequently consistent with this direction.

*Direction No 5.4 Commercial and Retail Development along the Pacific Highway, North Coast* - The proposal is consistent with this Direction, as it provides for a Highway Service Centre in a location identified in the Direction. Preliminary consultations have been held with the NSW RTA regarding the proposal and appropriate access. Further discussions will be held as part of the consultation, and this may be directed by the Gateway Determination.

*Direction No 6.1 Approval and Referral Requirements* - The Plan is consistent with recent State policy regarding concurrence, consultation or referral. No additional concurrence, consultation or referral is proposed. No additional development has been identified as designated development. The draft plan is therefore consistent



with this Direction.

*Direction No 6.3 Site Specific Provisions* - Consideration was given to proceeding by way of an alternative zone. This would, however, unduly and unnecessarily open up the range of uses that could occur on the land. The area has been identified as suitable for a Highway Service Centre in the Section 117 Directions and the relevant Regional Strategy. The planning proposal, by making a Highway Service Centre a permissible use on the land without changing the zone is consistent with these policy directions. At this point, no additional development standards or requirements in addition to those already contained in the principal environmental planning instrument would be applied. The proposal is therefore considered to be consistent with this Direction.

### **Kempsey Shire Council Pacific Highway Bypass Strategy 2011**

The placement of a Highway Service Centre at the South Kempsey Interchange, the development of new LEPs for South Kempsey and associated Development Control Plans are all recommended as part of the strategy. The future intention is to incorporate the subject land and others indicated in the attached map into the one zone, possibly an SP3 (Special Purpose Tourist) Zone.

### **Environmental, Social and Economic Impact**

#### Critical Habitat or Threatened Species

An ecological constraints assessment has been undertaken as part of the planning proposal.

The majority of the site is cleared, however there are three areas of environmental significance identified in the report. An area on the northern part of the subject land which is identified as potential koala habitat and unknown Koala habitat, and a small portion of Swamp Sclerophyll Forest (Endangered Ecological Community). Dependent upon the final concept plan for the site the report indicates a number of management options to address issues arising in relation to these areas.

#### Bushfire

The site is mapped as being bushfire prone land. The preliminary bushfire assessment has demonstrated that the development proposal is achievable within the parameters of NSW RFS Planning for Bushfire Protection 2006, however a comprehensive Bushfire Assessment is required to accompany the Development Application.

#### Topography

The site is sloping, and there will be a need for earthworks on the site in order to accommodate the various components of a Highway Service Centre. This will be addressed in detail as part of any Development Application lodged on the land for a service centre.

#### Traffic and Access

A Draft Traffic Report has been provided with the planning proposal. Overall the report estimates the potential overall traffic as follows:

AM Peak - 220 per hour  
Midday Peak - 360 per hour  
Evening Peak - 50 per hour



It is noted that these figures are preliminary and that further refinement will be undertaken at the Development Application stage. It is unlikely that there will be any restrictive traffic considerations at the site.

#### Public Infrastructure

South Kempsey has servicing limitations with respect to water and sewer. The Planning Proposal considers a range of servicing options. In the short term the scale of any Highway Service Centre in the area, will be limited by the services available to the site. It is likely that onsite servicing options will permit some development of a Highway Service Centre on the site in the short term, including on-site water harvesting and disposal.

Further development is likely to require augmentation to the water supply and sewerage system in South Kempsey.

#### Archaeology

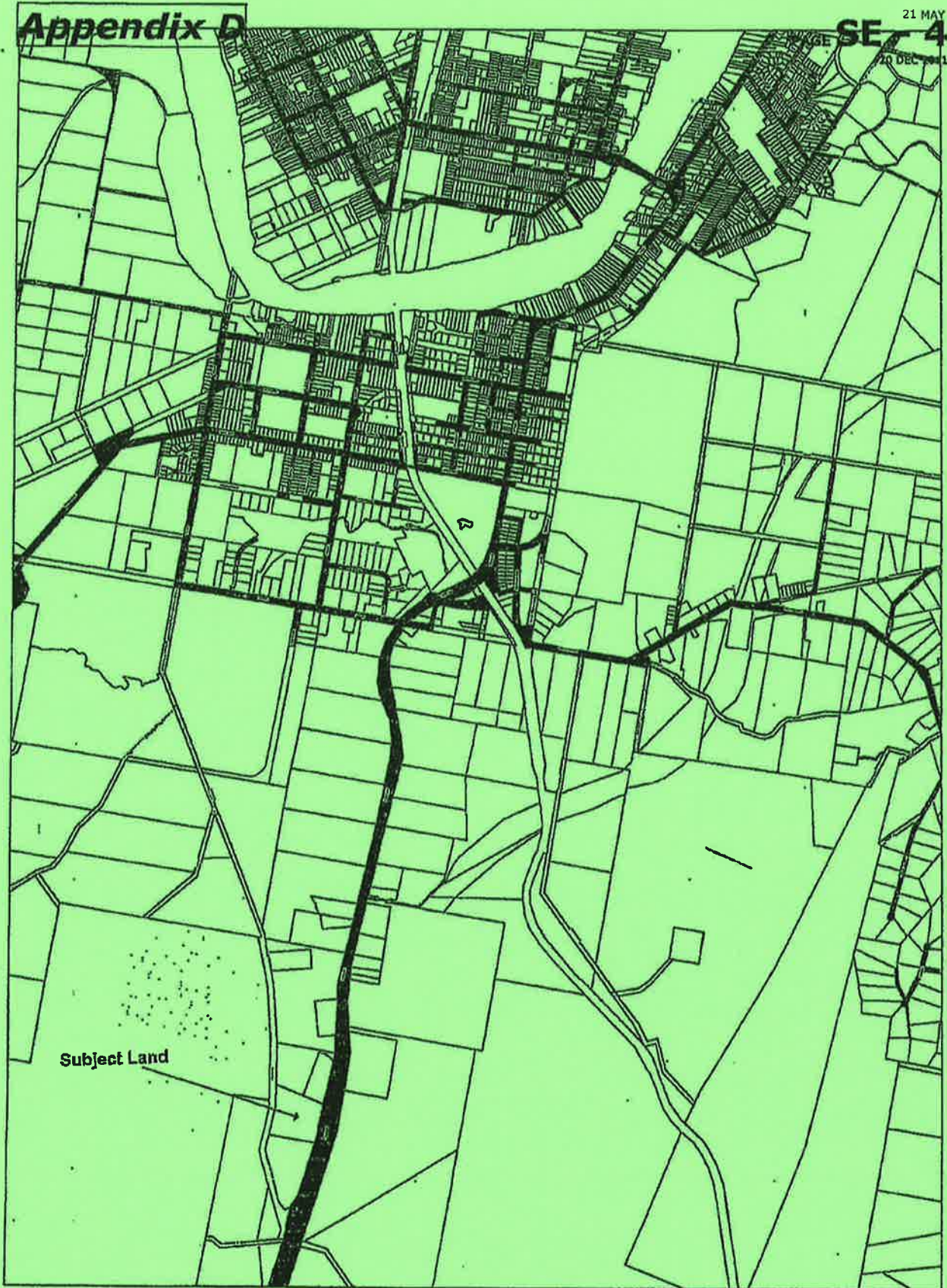
A report has been supplied with the planning proposal. Consultation with Aboriginal Elders within the area has been undertaken, however the applicant has been asked to provide further advice regarding compliance in accordance with due diligence requirements under the relevant Office of Environment and Heritage (OEH) guidelines.

#### **Community Consultation**

In accordance with section 56(2)(c) of the *Environmental Planning and Assessment Act 1979*, a Gateway Determination will specify the community consultation to be undertaken for the planning proposal. Community consultation must occur in accordance with the Gateway Determination.

Upon completion of the consultation with agencies, the draft LEP will be reported to Council to endorse for the purposes of public exhibition. In accordance with Council's Rezoning Applications Policy, the method for notifying the public exhibition will also be advised at the time for Councils endorsement.

**Appendix D**



Locality Map

A













**Location Map Proposed Highway Service Centre Northbound**





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Department Generated Correspondence (Y)

Contact: Jenny Johnson  
Phone: (02) 6641 6600  
Fax: (02) 6641 6601  
Email: Jenny.Johnson@planning.nsw.gov.au  
Postal: Locked Bag 9022, Grafton NSW 2460

Our ref: PP\_2012\_KEMPS\_001\_00 (12/01332)  
Your ref: T5-118, RZ-00003

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

Dear Mr Rawlings,

**Re: Planning Proposal to include 'highway service centres' as a definition in Clause 5 and as an additional permitted use for land at Lot 2454 DP 610363 under Schedule 2 of the Kempsey LEP 1987**

I am writing in response to your Council's letter dated 10 January 2012 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 include to include 'highway service centres' as a definition in Clause 5 and as an additional permitted use for land at Lot 2454 DP 610363 under Schedule 2 of the LEP.

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 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 regards to the planning proposal's inconsistencies with S117 Direction 4.4 Planning for Bushfire Protection, Council is to consult with the Commissioner of the NSW Rural Fire Service prior to undertaking community consultation and take into account any comments made as per the requirements of the Local Planning Direction.

In regards to the planning proposal's inconsistencies with the provisions of SEPP 44 Koala Habitat Protection, Council is to undertake a stage 2 additional Ecological Review and provide a copy to the Department's Regional Office prior to the finalisation of the amending LEP.

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,



**Tom Gellibrand**  
**Deputy Director General**  
**Plan Making & Urban Renewal**

## Gateway Determination

**Planning Proposal (Department Ref: PP\_2012\_KEMPS\_001\_00):** to include 'highway service centres' as a definition in Clause 5 and as an additional permitted use for land at Lot 2454 DP 610363 under Schedule 2 of the Kempsey LEP 1987

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 include 'highway service centres' as a definition in Clause 5 and as an additional permitted use for land at Lot 2454 DP 610363 under Schedule 2 of the LEP should proceed subject to the following conditions:

1. In regards to the planning proposal's inconsistencies with the provisions of SEPP 44 Koala Habitat Protection, Council is to undertake a stage 2 additional Ecological Review and provide a copy to the Department's Regional Office prior to the finalisation of the amending LEP.
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 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)*.
3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
  - Roads and Maritime Services
  - Office of Environment and Heritage
  - NSW Rural Fire Service

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. Further to Condition 3 above, Council is to consult with the Commissioner of the NSW Rural Fire Service prior to undertaking community consultation and take into account any comments made as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection.
5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
6. The timeframe for completing the LEP is to be **6 months** from the week following the date of the Gateway determination.





Dated 2nd day of February 2012.



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

## Appendix D

All communications to be addressed to:

Headquarters  
NSW Rural Fire Service  
Locked Mail Bag 17  
GRANVILLE NSW 2142

Customer Service Centre  
NSW Rural Fire Service  
PO Box 203  
URUNGA NSW 2455

Telephone: (02) 6655 7002  
e-mail: csc@rfs.nsw.gov.au

Facsimile: (02) 6655 7008

PAGE **SE - 15**  
21 MAY 2013



The General Manager  
Kempsey Shire Council  
PO Box 3078  
WEST KEMPSEY NSW 2440

Your Ref: T5-118 GLR:MK  
Our Ref: LEP/0070  
DA12022482285 PC

**ATTENTION:** Georgia Rayner

19 March 2012

Dear Ms Rayner,

**Planning Proposal – Additional Permitted Use for Highway Service Centre  
Lot 2454 DP 610363, Pacific Highway, South Kempsey**

I refer to your letter dated 20 February 2012 seeking comments from the NSW Rural Fire Service regarding the above Planning Proposal.

The NSW Rural Fire Service (RFS) has no objection to the Planning Proposal proceeding, however provides the following advice in relation to potential future development of the land.

The RFS notes that part of the subject land is identified as bush fire prone on the Kempsey Bush Fire Prone Land Map. Development applications for all development on bush fire prone lands will be required to comply with either s.79BA of the *Environmental Planning and Assessment Act 1979* or s.100B of the *Rural Fires Act 1997* depending upon the nature of the proposed development.

Consideration should be given to inclusion of the following bush fire protection measures during the planning stage of any future development proposals:

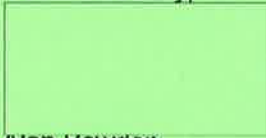
- asset protection zones and defendable space;
- construction standards and design (including the location of fuel storage and fuel filling points away from any bush fire hazard);
- safe access (for fire fighters entering and occupants evacuating the site);
- utility services (including adequate water supply and water pressure for fire fighting purposes);
- emergency management arrangements; and
- appropriate landscaping.

1 of 2

<b>KSC RECEIVED</b>	
FOLIO	474010
27 MAR 2012	
FILE	T5-118
OFFICER	S/D/S GJR (www)

For any queries regarding this correspondence please contact Paul Creenaune on 66557002.

Yours sincerely,



Alan Bawden

**Team Leader - Development Assessment and Planning**

The RFS has made getting information easier. For general information on 'Planning for Bush Fire Protection, 2006', visit the RFS web page at [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au) and search under 'Planning for Bush Fire Protection, 2006'.



File No: NTH10/00067/03, CR2012/004757  
Your Ref: Planning Proposal T5-118

The General Manager  
Kempsey Shire Council  
PO Box 3078  
WEST KEMPSEY NSW 2440

Attn: Georgia Rayner

Dear Madam,

**Public Exhibition of Planning Proposal T5-118 – Proposed Highway Service Centre (West), South Kempsey Interchange, the Pacific Highway (HW10), Kempsey NSW**

I refer to your email of 27 April 2012 requesting comment on the abovementioned planning proposal.

The key concern for Roads and Maritime Services (RMS) is the safety and efficiency of the state classified road network, particularly the Pacific Highway (HW10).

RMS has recently invested significant public expenditure in the construction of the Kempsey Bypass Project. RMS consideration of this planning proposal is therefore focused on determining the potential impacts of the proposed Highway Service Centre (HSC) development on the safety and efficiency of the South Kempsey Interchange.

The 'Preliminary Traffic Report', prepared by Wakefield Planning in support of the current planning proposal, has generally identified highway traffic volumes, directional flows, and an assumed traffic generation rate for the development. Whilst the report has identified likely traffic conditions, the proposal has not adequately considered the potential impacts of the proposed HSC on the South Kempsey Interchange and as such RMS would not support the proposed rezoning until further investigation has been undertaken. Whilst it may be argued that further detail could be provided at Development Application stage, RMS does not support this approach as it has the potential to result in the rezoning of a site that is unable to safely and efficiently accommodate the proposed use.

The applicable Direction under Section 117(2) of the *Environmental Planning & Assessment Act 1979*, Schedule 2(6) provides that:

*'the establishment of highway service centres may be permitted at the localities in Table 1, provided that the Roads and Traffic Authority is satisfied that the Highway Service Centre(s) can be safely and efficiently integrated into the Highway interchange at those localities'.*

**Roads & Maritime Services**



RMS requests that the following issues be addressed prior to the planning proposal proceeding;

1. The service road providing frontage to the HSC is an integral link connecting the Southern section of the interchange to the northern Pacific Highway on-ramp. Additionally, the service road will provide the key route for local traffic heading south from Kempsey to the Pacific Highway and will provide a local connection to the future industrial estate on the eastern side of the Pacific Highway. Consequently, the proposal should consider the current and future traffic volumes for the service road and provide an analysis of key intersections to demonstrate that traffic generated by the development will not adversely impact on the capacity, safety or efficiency of those intersections. At a minimum the intersection analysis should consider:
  - a. The intersection of the western interchange service road and the north-bound on-ramp to the Pacific Highway.
  - b. The south-western roundabout of the South Kempsey Interchange.
  - c. The intersection layout proposed for the site access.

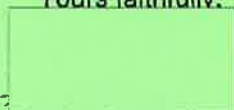

It can be assumed that the speed zone will be 80 km/h on the service road and 60km/h on the southern roundabouts in accordance with the most recent interchange designs.

2. The proposed HSC concept design makes provision for 30 heavy vehicle (HV) parking spaces of which 10 will be to a B-Double standard. The planning proposal should consider existing and future trends for the mix of HV types likely to use the facility. The continued upgrade of the Pacific Highway to a freeway standard is likely to increase the number of B-Double type vehicles using the highway in future. The current concept design is considered to limit the number of B-Double type vehicles using the site at any point in time. It is recommended that the planning proposal be amended to provide at least 25 B-double standard parking spaces that will be suitable to accommodate both 19m and 25m vehicles without limiting spaces to any one type of vehicle.
3. The arrangement of HV parking spaces should have consideration for the manoeuvring paths of these vehicles. It is noted that half of the HV parking spaces demonstrated on the concept design will be required to undertake a reversing movement to park the vehicle. This arrangement should have consideration for pedestrian safety and the ease of use for HV operators. Any difficulty in manoeuvring a HV for parking is likely to deter operators from using the facility.
4. The proposed HSC concept design has not considered appropriate facilities to accommodate buses and coaches. Given the planning proposal includes the potential for a Tourist Information Centre, it is considered important that bus parking spaces are provided and situated appropriately so as to enable safe pedestrian access between the vehicle and the HSC facilities.

RMS considers that should the abovementioned issues be addressed and the site be successfully rezoned, then the proposal will likely encounter reduced delay under any subsequent DA proposal.

Should you have any further questions then please contact Matt Adams of RMS Development Northern on 6640 1344 or via email at: [development.northern@rms.nsw.gov.au](mailto:development.northern@rms.nsw.gov.au)

Yours faithfully,



David Bell  
Regional Manager, Northern

30 MAY 2012



Office of Environment & Heritage

Your reference: T5-118 LA:6426
Our reference: DOC12/17292 FIL07/9391-04
Contact: Mr John Martindale (02) 6659 8222

Mr David Rawlings
General Manager
Kempsey Shire Council
PO Box 3078
WEST KEMPSEY NSW 2440

Att: Ms Georgia Rayner, Strategic Planning

Dear Mr Rawlings

Re: Public exhibition of Planning Proposal T5-118. South Kempsey Highway Service Centre

Thank you for Council's letter, dated 26 April 2012, advising that a Planning Proposal for the above centre on Lot 2454 DP610363 South Kempsey has been placed on public exhibition and requesting comment from the Office of Environment and Heritage (OEH) under the gateway provisions in Section 56 of the Environmental Planning and Assessment Act 1979.

OEH notes the proposal is consistent with the Mid North Coast Regional Strategy and with Ministerial directions relating to facilities associated with the Pacific Highway upgrade. It is also noted that the lot is predominantly cleared of native vegetation and highly disturbed by agricultural uses. OEH is able to support the rezoning of the lot from 1(d) - rural investigation under Council's existing LEP to SP3 - special purpose under the draft Standard Instrument LEP subject to the following:

- 1. Implementation of the recommendations made by the ecological consultant (Lewis Ecological Surveys).
2. Compensatory Koala habitat trees and nest boxes being placed adjacent to mapped Koala habitat in the north west of the site to replace the four or five isolated hollow bearing trees that may be removed.
3. Installation of fauna proof fencing along the western boundary of the site.
4. Completion of a Stage 2 ecological assessment (landscaping plan) as required by the gateway determination once detailed design work is completed.
5. Receipt of the letter expected from the local Aboriginal community confirming the site has no cultural heritage value.

OEH expressly notes that the proposal does not relate to the vegetated lands to the south of Lot 2454 or to lands shown on the other side of the highway for a south bound service centre.

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

Yours sincerely

[Signature box]

15 May 2012

DIMITRI YOUNG
Regional Coordinator - North East
Office of Environment and Heritage

Locked Bag 914, Coffs Harbour NSW 2450
Federation House Level 7, 24 Moonee Street,
Coffs Harbour NSW 2450
Tel: (02) 6651 5946 Fax: (02) 6651 6187
ABN 30 841 387 271
www.environment.nsw.gov.au

KSC RECEIVED
FOLIO 477758
16 MAY 2012
FILE T5-118
COPY LAG26
OFFICER SDS JR (man)

18 May 2012

General Manager  
Kempsey Shire Council  
PO Box 3078  
WEST KEMPSEY NSW 2440

<b>KSC RECEIVED</b>	
FOLIO.....	478143
22 MAY 2012	
FILE.....	T5-118
OFFICER.....	SDS GLR

Dear Sir

**RE: OBJECTION – DRAFT KEMPSEY LOCAL ENVIRONMENTAL PLAN (KLEP) 1987 (AMENDMENT NO. 118) PROPOSAL TO REZONE LAND TO PERMIT A HIGHWAY SERVICE CENTRE ON LOT 2454 IN DP 610363, PACIFIC HIGHWAY AT SOUTH KEMPSEY.**

I refer to the abovementioned matter, being a proposed rezoning of Lot 2454 in DP 610363 Pacific Highway at South Kempsey, to permit a Highway Service Centre to be constructed on the land (hereinafter referred to as the western HSC). Galban Pty Ltd, is the owner of the land on the eastern side of the South Kempsey interchange being the eastern HSC and Industrial Estate.

Council is requested to reject the proposed rezoning of the western site for the following reasons:-

- The adverse economic effect that the rezoning will have upon the community of Kempsey.
- The adverse social impact that the rezoning will have upon the community of Kempsey Shire and the broader community generally.
- The fact that the site is unsuitable for the purposes of a Highway Service Centre for reasons relating to;
  - (i) Flooding and stormwater drainage
  - (ii) Topography
  - (iii) Bush fire hazard
  - (iv) Access, traffic, parking and manoeuvring
  - (v) Potential indigenous archaeology
  - (vi) Noise impacts
  - (vii) Potential impacts on native flora and fauna
  - (viii) Water and sewer servicing
- The proposal is contrary to the Objects of the Environmental Planning and Assessment Act 1979.



Each of these concerns are elaborated upon below.

### **Economic Impact**

Council is in the process of considering Development Application No. T6-12-27 for a Highway Service Centre and associated works on proposed lots 3 & 4, in the subdivision of Lots 100 and 104 in DP 776239 at South Kempsey (the eastern HSC). This Development Application is the culmination of approximately 12 years of site investigations, a site specific rezoning and the preparation of a detailed Development Control Plan and the adoption of that Control Plan by Council. The estimated cost of construction of the eastern Highway Service Centre proposal currently before Council is \$17 million excluding approximately \$6 million in site development costs.

The proposal therefore represents a \$23 million private investment in the establishment of the proposed service centre. Upon completion the centre will create approximately 189 new full time, part time and casual jobs in the local government area. These positions are in addition to those jobs that will be created throughout the construction period.

The feasibility of the eastern Highway Service Centre is obviously based upon the expected turnover of the centre, which in turn is dependent upon the volume of traffic that will travel along the Pacific Highway and the percentage of such passing traffic that is likely to utilise the facilities to be provided onsite. In this regard, based on the Traffic Report prepared for the Kempsey Bypass Alliance and the predicted traffic volumes for 2014 used in that report, it is anticipated that with only the eastern Highway Service Centre (ie. without the development of the proposed Western Service Centre) the Eastern Service Centre can expect 6,000 vehicles per day to utilise the facilities.

In the event that the Western Highway Service Centre proceeds, the expected visitation to the Eastern Highway Service Centre site is reduced to 3,000 vehicles per day effectively halving the anticipated turnover. BJ Bradley & Associates (Traffic Engineers) have prepared a brief report, attached, to calculate the impact of the western site proceeding on traffic volumes visiting the eastern centre.

This reduction in turnover effectively renders the eastern site development as currently proposed, nonviable.

Equally, the concept design presented to Council with the rezoning proposal for the western HSC would also be financially unviable based on an expected daily visitation rate of only 3,000 vehicles per day.

The proposed eastern Highway Service Centre is located on the South Kempsey Interchange and is the only one of the two sites that is positioned to service both north and southbound traffic. Whilst the western site will capture northbound traffic, any southbound traffic would need to double back on itself to access the western site. Therefore, if the eastern site does not proceed, southbound traffic will not be serviced. If the western site does not proceed, both north and southbound traffic would still be serviced.

Given the abovementioned facts, should Council chose to support the rezoning of the western HSC, the eastern HSC will either not proceed in its current form or not proceed at all.

If the eastern site does proceed it will do so at a far reduced scale, perhaps providing a standalone service station and one or two fast food outlets. The \$23 million investment will be lost to the Shire and the employment opportunities arising from the construction and operation if the centre and the flow on effects to the industrial subdivision, and Kempsey itself, will also be lost.

Should the western site proceed, it is unlikely to capture the southbound traffic and based upon an anticipated visitation as set out above, the investment in the order presented in the concepts to Council is highly unlikely to be realised. It is expected that the western HSC would proceed along similar lines to the fall back position for the eastern site, ie. a service station with a number of free standing fast food outlets.

Whilst Council may suggest that this comes down to competition – this is not the case. An economic benefit will be lost to Kempsey Shire and will not be made good by the western HSC proposal. Accordingly, the case law principles established in the NSW Land and Environment Court in relation to competition would find that in respect of a development application for the establishment of a HSC on the western site of the South Kempsey Bypass as currently proposed would result in a negative adverse environmental effect in terms of its economic impact that would not be made good by the establishment of the proposal and accordingly it should not be supported.

#### **Social Impact**

For the reasons outlined above it is considered likely that in the event that the rezoning of the western HSC proceeds, the eastern HSC would be likely to proceed at a far reduced scale. The employment opportunities that would be likely to be generated by the current proposal would be significantly reduced. As also outlined above in the event that the eastern HSC does not proceed, the capacity to service southbound traffic on the Highway in a convenient manner, will be lost.

In addition to the above, significant public investment in infrastructure has been made in the construction of the South Kempsey Bypass and in ensuring that the roundabouts are located and capable of servicing the proposed eastern HSC site and as such north and southbound traffic on the South Kempsey Bypass. Similar to Taree and Port Macquarie High Service Centres which operate economically successfully.

It is considered that the loss of employment and the waste of public funding on infrastructure is an adverse social effect that needs to be given due consideration in the rezoning process and Council is urged to reject the rezoning application on the basis of this negative effect on the community of Kempsey Shire and the broader community generally.

### **Flooding and Stormwater Drainage**

The proposed site for the western HSC is an unnamed riparian corridor. The site and surrounds are subject to flooding and a significant volume of stormwater drainage is directed to the site from the larger catchment and more recently, the South Kempsey Interchange. The proposed rezoning has not addressed these issues beyond a statement to the effect that an "overland flow path through the site would be provided for storm events".

Prior to Council supporting any rezoning of the subject land a complete Flood Study and Stormwater Management Plan should be prepared for the site. This Flood Study and Stormwater Management Plan should look not only at the onsite effects of the proposed development but the potential increase in Flood Impacts affecting downstream properties.

The riparian corridor affecting the site should be retained and revegetated in accordance with the principles of sound ecological and sustainable site planning. In this regard it is noted that the vegetation communities that exist on the site include Pink Bloodwood/Tallowwood/Ironbark Open Forest which has been mapped as Koala habitat along with Swamp, Sclerophyll Forest (an Endangered Ecological Community).

### **Topography**

It appears from the information provided on public exhibition that significant filling of the site would be required to establish gradients across the property that would be suitable for the establishment of the HSC and in particular to accommodate B-double vehicles as proposed. Any filling of the site is likely to have a significant impact on flooding and stormwater drainage as mentioned above and would negate the potential to retain the significant stands of vegetation that have been identified on the site, in particular the Koala habitat trees and the Endangered Ecological Community. The site is essentially a drainage corridor and the existing dam that is proposed to be filled as part of the proposal is located on this drainage corridor. The land to the west of the site rises to dense bushland and increases the bushfire risks associated with any development of this site. This matter is discussed further below.

### **Bushfire Hazard**

The proposed rezoning has not given adequate attention to the establishment of Asset Protection Zones, defensible space, safe access for fire fighters entering the site and evacuating the site nor to utility services, particularly for fire fighting purposes, nor to appropriate landscaping of the site in particular if there is a need to retain Koala habitat and the Endangered Ecological Community on the site is taken into consideration. The need to reinstate the existing vegetation along the drainage corridor would also significantly effect bushfire management.

The NSW Rural Fire Service has highlighted in their correspondence dated 19 March 2012 that the land is identified as being fire prone and any future Development Application will need to comply with either Section 79BA or Section 100B of the Rural Fires Acts 1997. It is considered likely that the development constraints that apply to the site will result in the



overall reduction in the scale development proposed on the land, reinforcing the concerns raised in the Economic Impact Assessment and Social Impact Assessment sections of this submission.

#### **Access, Traffic, Parking and Manoeuvring**

The proposed Development site is located on the existing Pacific Highway that will become the service road/access ramp for northbound traffic at the South Kempsey interchange. Whilst it is stated that preliminary discussions have been held with the Roads and Traffic Authority and a single entry exit point on the Pacific Highway is being pursued, it is considered likely that the volume of traffic that will be using this access and egress point on the service road would have an adverse impact on traffic safety and the operation of the service road.

As noted above, the site will need to be filled to achieve an appropriate gradient for heavy vehicle movements between the access and the proposed truck parking area. The costs associated with the filling of the site, given that the exercise would not result in a balance of cut to fill, is likely to render the project unviable in its current form. Further, the manner in which the riparian corridor and stormwater are to be managed is unclear, with insufficient land allocated to onsite stormwater detention and no method of stormwater treatment being identified.

#### **Potential Indigenous Archaeology**

The rezoning submission notes that "sign off" of the archaeological survey by key the stakeholders has not been received. Further, the assessment does not appear to follow either the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW or the Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW. The rezoning proposal should not proceed until the requirements of these policies have been met.

#### **Noise Impact**

The proposed rezoning relates to an isolated parcel of rural land. The establishment of the HSC as proposed is likely to have an adverse impact on neighbouring rural land as a result of noise. Appropriate setbacks to neighbouring land and the existing Pacific Highway should be established based on the potential effect of the proposed development on neighbouring properties. Similarly the noise impact on the neighbouring bushland to the west needs to be considered and appropriate setbacks established.

#### **Potential Impact on Native Flora and Fauna**

As noted elsewhere in this submission the planning proposal identifies existing vegetation communities over the site. These communities are significant and include Koala habitat and an Endangered Ecological Community. Further, this vegetation is located within a riparian

corridor which should be protected under the Water Management Act 2000. Any future development of the land would require a Controlled Activity Approval from the Office of Water. The rezoning should not pre-empt the granting of such an approval and the Office of Water should be given an opportunity to comment on the proposal prior to the matter proceeding any further.

#### **Utility Services**

The Servicing Strategy for the site has not been resolved. Insufficient land is set aside under the current proposal should onsite water harvesting and/or onsite effluent disposal be required.

#### **The Proposal Is Contrary To the Objects of The Environmental Planning and Assessment Act 1979**

Section 5 of the Environmental Planning and Assessment Act 1979 sets out the objects of the Act and these are:-

*(a) To encourage:*

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forest, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
  - (ii) the promotion and co-ordination of the orderly and economic use and development of land,*
  - (iii) the protection, provision and co-ordination of communication and utility services,*
  - (iv) the provision of land for public purposes,*
  - (v) the provision and co-ordination of community services and facilities*
  - (vi) the protection of the environment including the protection and conservation of native animals and plants including threatened species, populations and ecological communities and their habitats,*
  - (vii) ecologically sustainable development*
  - (viii) the provision and maintenance of affordable housing,*
- (b) To promote the sharing of the responsibility for environmental planning between the different levels of government in the state*
- (c) To provide increased opportunity for public involvement and participation and environmental planning and assessment.*

It is considered that the proposed rezoning of the subject land is contrary to the objects of the act referred to above under points (i), (ii), (iii), (iv), (v) and (vi). The proposal will have an adverse impact upon the potential conservation of the riparian corridor through the site, existing native vegetation and flora and fauna for the reasons outlined above. The rezoning does not promote the orderly and economic use and development of land. Rather, the rezoning is likely to result in an adverse economic effect that will not be made good as a result of the rezoning for the reasons outlined above.

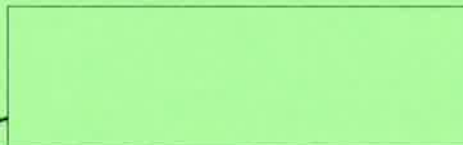
In terms of utility services the planning proposal suggests that onsite effluent disposal will be provided and that sewerage will either be disposed of onsite or the proposal will rely on the extension of sewer services to the site. It is considered based on the current site layout that insufficient land would be available to service the extent of the development proposed and the extension of town utility services to the site is still in some doubt. On this basis alone the land should not be rezoned until such time as there is some certainty regarding servicing of the land so that development can occur in an orderly fashion.

The Planning Proposal refers to the retention of Koala feed trees or alternatively compensatory plantings. Given the extent of filling that is required for this site the retention of trees would not be a viable option. In the event that the trees cannot be retained, Biodiversity offsets are recommended. No such land has been identified. It is therefore considered that the proposal is likely to have a significant impact on threatened species, populations and ecological communities and their habitats as the development cannot proceed in an ecologically sustainable manner in the format currently being presented to Council.

For the reasons set out above Council is requested to reject to the rezoning.

Please don't hesitate to contact me should you required any further information or assistance in relation to this submission.

Yours faithfully



**Galban Pty Ltd**  
**By its attorneys, Mark Farrowell and**  
**Benn Farrowell pursuant to the**  
**Power of Attorney dated 4 April 2012**



**Lin Armstrong**

---

**From:** Barry Bradley [bjbradle@tpg.com.au]  
**Sent:** Thursday, 10 May 2012 10:58 AM  
**To:** Lin Armstrong  
**Subject:** RE: South Kempsey Service Centre - Projected Traffic Volumes

Hi Lin

The projected daily traffic volumes in 2014 from the Bypass Alliance Report were:

7,228 vpd northbound  
5,174 vpd southbound

Total Daily Volume = 12,402 vpd

The Alliance's Report quoted daily volumes but didn't quote AM and PM peaks, just a single peak figure.

The daily traffic volumes in my traffic report for 2011 were:

**AM Peak**

7,370 vpd northbound  
6,180 vpd southbound

Total Daily Volume = 13,550 vpd  
Based on AM peak

**PM Peak**

8,900 vpd northbound  
8,700 vpd southbound

Total Daily Volume = 17,600 vpd  
Based on PM peak

I would normally use the higher peak figure to predict daily volumes and therefore used an AADT of 17,600 vpd (two-way) on the bypass in my traffic report, which is significantly higher than the volumes assumed in the Alliance's traffic assumptions. I used the higher volumes to ensure that the roundabout would work and to demonstrate that clearly.

My traffic predictions were based on traffic surveys I had done a few years ago at the South Kempsey industrial estate access on the Pacific Highway and the details are in my traffic report.

Regards

Barry Bradley

---

**From:** Lin Armstrong [mailto:lin@stevensgroup.com.au]  
**Sent:** Thursday, 10 May 2012 10:22 AM  
**To:** 'Barry Bradley'  
**Subject:** RE: South Kempsey Service Centre - Projected Traffic Volumes

Thanks Barry. Could you please give me the following information based on the Alliance's Traffic Assumptions:-

1. The total assumed daily traffic volumes northbound on the highway for 2014
2. The total assumed daily traffic volumes southbound on the highway for 2014

Regards

**Lin Armstrong**  
Manager Planning Services

Direct Line: 4365 8641  
Mobile: 0420973252  
Email: [lin@stevensgroup.com.au](mailto:lin@stevensgroup.com.au)

Stevens Holdings Pty Limited | ABN: 14 002 386 450 | (Trading as Stevens Group)  
Postal Address: PO Box 3171 Erina NSW 2250 | Suite 2, 257-259 Central Coast Highway Erina NSW 2250  
Phone: 02 4365 3351 | Fax: 02 4365 3750 | [www.stevensgroup.com.au](http://www.stevensgroup.com.au)

**STEVENS GROUP**

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**From:** Barry Bradley [<mailto:bjbradle@tpg.com.au>]  
**Sent:** Monday, 7 May 2012 1:14 PM  
**To:** Lin Armstrong  
**Subject:** South Kempsey Service Centre - Projected Traffic Volumes

Hi Lin

As requested on Friday, I have had a look at the estimated traffic volumes that might be expected to attend the eastern service centre at South Kempsey with no western service centre and also with a western service centre in place. The details of the potential western service centre are unknown and therefore it is assumed that its attractiveness will largely result from its location to the old Pacific Highway link to Kempsey and proximity to the northbound loading ramp

The traffic volumes are as projected in the traffic report for the eastern service centre with the additional traffic departing the northbound and south bound carriageways as predicted by the traffic forecasts in the traffic report prepared for the Kempsey Bypass Alliance.

My traffic projections are as follows:

**No Western Service Centre**

Northbound Inward to Service Centre

AM Peak Hour  
210 vph

Southbound Inward to Service

310 vph  
Approximate Total Hourly Inward to Service Centre  
= 520 vph

Northbound Inward to Service Centre

PM Peak Hour  
250 vph

Southbound Inward to Service

350 vph  
Approximate Total Hourly Inward to Service Centre  
= 600 vph

**With Western Service Centre**

Northbound Inward to Service Centre

AM Peak Hour  
20 vph

Southbound Inward to Service

260 vph

Approximate Total Hourly Inward to Service Centre  
= 280 vph

Northbound Inward to Service Centre

Centre  
PM Peak Hour  
25 vph

Southbound Inward to Service

300 vph

Approximate Total Hourly Inward to Service Centre  
= 325

vph

**Assumptions:**

- Northbound traffic departing the bypass towards Kempsey more likely to use the western service centre. However, depending on what services are available, it may be possible that some will still travel across the bypass to the eastern centre. It is assumed that 10% of northbound traffic departing the bypass towards Kempsey may still use the eastern service centre.
- Southbound traffic departing the bypass towards Kempsey more likely to use the eastern service centre. However, depending on what services are available, it may be possible that some will still travel across the bypass to the western centre. It is assumed that 10% of southbound traffic departing the bypass towards Kempsey may use the western service centre.
- Through-traffic departing from the bypass has been assumed as being 35% of through volumes in both directions. Similarly, it is assumed that 35% of traffic departing the bypass and heading towards Kempsey would access a service centre before continuing towards Kempsey, and that 35% of southbound traffic departing Kempsey and travelling to the southbound loading ramp would use a service centre. It is likely that 50% of southbound traffic departing Kempsey and travelling via the old Pacific Highway to the southbound loading ramp would use a western service centre.
- It is assumed that 90% of northbound through-traffic departing the bypass would use the western service centre and 10% of northbound through-traffic departing the bypass may use the eastern service centre if particular services are not also offered in the western service centre.
- It is assumed that 90% of southbound through-traffic departing the bypass would use the eastern service centre and 10% of southbound through-traffic departing the bypass may use the western service centre if particular services are not also offered in the eastern service centre.

**Notes:**

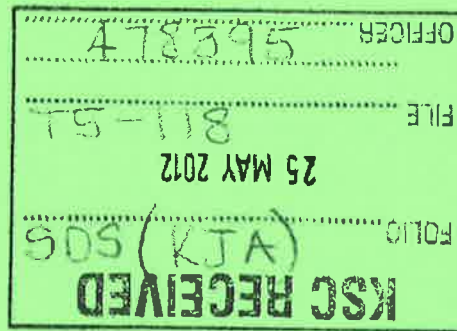
- Daily volumes are generally approximately 10 times the peak hourly volumes
- The traffic departing the bypass towards Kempsey were extracted from the traffic report prepared for the Kempsey Bypass Alliance for 2014. The Traffic Assessment Report for the eastern service centre volumes used traffic predictions of through volumes that were higher than 2014 figures in the traffic report prepared for the Kempsey Bypass Alliance for 2014.
- The traffic report prepared for the Kempsey Bypass Alliance for 2014 provide peak data for 2014 but did not distinguish between AM and PM peak periods.
- Because of the variables involved in the above assumptions, I cannot guarantee that the above predictions would be 100% accurate and should only be used as a guide.

Get back to me if you have any queries.

Regards

Barry Bradley





Seakat Investment Pty Ltd  
ABN: 37758172719  
PO Box 9235  
Port Macquarie NSW 2444

23<sup>rd</sup> May 2012

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

**Re: Objection to rezoning proposal at Lot 2454, DP 610363, Western side of Pacific Highway, South Kempsey**

Dear David

This letter outlines my objections to the above mentioned rezoning proposal at, Lot 2454, DP 610363 to potentially provide for the development of a petrol filling station restaurants and other end uses.

**It is requested that Council reject and offer no support to this rezoning proposal for the following reasons;**

1. **Oversupply creating a negative impact on the future success of the RMS supported and designated service centre** - All this proposal has created is confusion in the market that is resulting in the key petrol providers and other end users not willing to invest substantial capital due to the fact that there is no certainty about future business. By supporting this rezoning Council will be jeopardizing vital investment and reducing employment opportunities in Kempsey. As outlined in our meeting of 16<sup>th</sup> May 2012, the RMS supported and designated service centre will employ over 250 people, which will be at risk if land on the Western side of the Pacific Highway is rezoned.
2. **Delay in Opening** – The rezoning process has and continue to create significant a delays in the ability for landowners, developers and end users to commit capital, jobs through investment in Kempsey, as no firm decisions can be made until there is clear direction on the future (or not) of the development on the Western side .
3. **Job Redundancies** – As the owner of Kempsey McDonald's, we employ over 150 people, and anticipate a 30% decline in turnover once the highway bypass opens. My full time staff count has been expanding to 31 with the expectation of a second store operating from the service centre proposed at the bypass interchange. However, a result of the delay in progress of the service centre, I will now have to reduce my total staff numbers to 100 with just 18 full time employees. This is a direct result of the delays in opening of the RMS approved service centre which has been heavily influenced by the proposal on the Western side of the Highway, as detailed above.
4. **State public funded infrastructure** in the form of the interchange and associated works has been constructed to accommodate the RMS supported and designated service centre. Public money will be

wasted and it's investment will not be realised should the development on the Western side cause the service centre to not proceed or proceed in a significantly reduced form.

5. **Tourist information booth** which is on offer, free of charge to Council on the designated service centre will direct north and south bound traffic towards facilities in and around Kempsey, ie the Slim Dusty Centre. The tourist information centre proposed as part of the development (should the rezoning proceed) on the Western side would provide for northbound visitors and traffic generally, thus capturing only 50% of the passing trade opportunity.

David, for the five reasons outlined above, I as a local business operator having heavily invested and seek to invest further in Kempsey to ensure the town flourishes during these changes (the bypass), request that Council rejects the rezoning proposal in relation to land at Lot 2454, DP610363. I confirm this view is consistent with that of McDonald's Australia Limited, (copied on this letter) who as a corporation have also invested heavily and wish to invest further in Kempsey, but only on the basis of a viable business opportunity which as detailed above is yet to be determined.

I look forward to hearing from you and please feel free to contact me or McDonald's corporate representatives (noted below) should you wish to discuss.

Yours sincerely,



**Sean Davis**

Owner/Opertor

McDonald's Kempsey

CC: Martin Squires – Development Manager, McDonald's Australia Limited

CC: Michelle Grigor – Operations Consultant, McDonald's Australia Limited

14 May 2012

General Manager  
Kempsey Shire Council  
PO Box 3078  
WEST KEMPSEY NSW 2440



Dear Sir

**RE: OBJECTION – DRAFT KEMPSEY LOCAL ENVIRONMENTAL PLAN (KLEP) 1987 (AMENDMENT NO. 118) PROPOSAL TO REZONE LAND TO PERMIT A HIGHWAY SERVICE CENTRE ON LOT 2454 IN DP 610363, PACIFIC HIGHWAY AT SOUTH KEMPSEY.**

I refer to the abovementioned matter, being a proposed rezoning of Lot 2454 in DP 610363 Pacific Highway at South Kempsey, to permit a Highway Service Centre to be constructed on the land (hereinafter referred to as the western HSC), I act on behalf of the Stevens Group who are the proponents of the Highway Service Centre proposed on the eastern side of the South Kempsey interchange on land owned by Mr & Mrs Farawell, (hereinafter referred to as the eastern HSC).

Councillor is requested to reject the proposed rezoning of the western site for the following reasons:-

- The adverse economic effect that the rezoning will have upon the community of Kempsey.
- The adverse social impact that the rezoning will have upon the community of Kempsey Shire and the broader community generally.
- The fact that the site is unsuitable for the purposes of a Highway Service Centre for reasons relating to;
  - (i) Flooding and stormwater drainage
  - (ii) Topography
  - (iii) Bush fire hazard
  - (iv) Access, traffic, parking and manoeuvring
  - (v) Potential indigenous archaeology
  - (vi) Noise impacts
  - (vii) Potential impacts on native flora and fauna
  - (viii) Water and sewer servicing
- The proposal is contrary to the Objects of the Environmental Planning and Assessment Act 1979.

Stevens Holdings Pty Limited | **ABN:** 14 002 388 450 | (Trading As Stevens Group)  
**Postal Address:** PO Box 3171 Erina NSW 2250 | Suite 6, 257-259 Central Coast Highway Erina NSW 2250  
**Phone:** 02 4365 3351 | **Fax:** 02 4365 3750 | [www.stevensgroup.com.au](http://www.stevensgroup.com.au)

U:\Kempsey\1411\ARMSTRONG\1411 to Kempsey Council re Draft Objection / HSC 100512.docx



Each of these concerns are elaborated upon below.

### **Economic Impact**

Council is in the process of considering Development Application No. T6-12-27 for a Highway Service Centre and associated works on proposed lots 3 & 4, in the subdivision of Lots 100 and 104 in DP 776239 at South Kempsey (the eastern HSC). This Development Application is the culmination of approximately 12 years of site investigations, a site specific rezoning and the preparation of a detailed Development Control Plan and the adoption of that Control Plan by Council. The estimated cost of construction of the eastern Highway Service Centre proposal currently before Council is \$17 million excluding approximately \$6 million in site development costs.

The proposal therefore represents a \$23 million private investment in the establishment of the proposed service centre. Upon completion the centre will create approximately 189 new full time, part time and casual jobs in the local government area. These positions are in addition to those jobs that will be created throughout the construction period.

The feasibility of the eastern Highway Service Centre is obviously based upon the expected turnover of the centre, which in turn is dependent upon the volume of traffic that will travel along the Pacific Highway and the percentage of such passing traffic that is likely to utilise the facilities to be provided onsite. In this regard, based on the Traffic Report prepared for the Kempsey Bypass Alliance and the predicted traffic volumes for 2014 used in that report, it is anticipated that with only the eastern Highway Service Centre (ie. without the development of the proposed Western Service Centre) the Eastern Service Centre can expect 6,000 vehicles per day to utilise the facilities.

In the event that the Western Highway Service Centre proceeds, the expected visitation to the Eastern Highway Service Centre site is reduced to 3,000 vehicles per day effectively halving the anticipated turnover. BJ Bradley & Associates (Traffic Engineers) have prepared a brief report, attached, to calculate the impact of the western site proceeding on traffic volumes visiting the eastern centre.

This reduction in turnover effectively renders the eastern site development as currently proposed, nonviable.

Equally, the concept design presented to Council with the rezoning proposal for the western HSC would also be financially unviable based on an expected daily visitation rate of only 3,000 vehicles per day.

The proposed eastern Highway Service Centre is located on the South Kempsey Interchange and is the only one of the two sites that is positioned to service both north and southbound traffic. Whilst the western site will capture northbound traffic, any southbound traffic would need to double back on itself to access the western site. Therefore, if the eastern site does not proceed, southbound traffic will not be serviced. If the western site does not proceed, both north and southbound traffic would still be serviced.

Given the abovementioned facts, should Council chose to support the rezoning of the western HSC, the eastern HSC will either not proceed in its current form or not proceed at all.

If the eastern site does proceed it will do so at a far reduced scale, perhaps providing a standalone service station and one or two fast food outlets. The \$23 million investment will be lost to the Shire and the employment opportunities arising from the construction and operation if the centre and the flow on effects to the industrial subdivision, and Kempsey itself, will also be lost.

Should the western site proceed, it is unlikely to capture the southbound traffic and based upon an anticipated visitation as set out above, the investment in the order presented in the concepts to Council is highly unlikely to be realised. It is expected that the western HSC would proceed along similar lines to the fall back position for the eastern site, ie. a service station with a number of free standing fast food outlets.

Whilst Council may suggest that this comes down to competition – this is not the case. An economic benefit will be lost to Kempsey Shire and will not be made good by the western HSC proposal. Accordingly, the case law principles established in the NSW Land and Environment Court in relation to competition would find that in respect of a development application for the establishment of a HSC on the western site of the South Kempsey Bypass as currently proposed would result in a negative adverse environmental effect in terms of its economic impact that would not be made good by the establishment of the proposal and accordingly it should not be supported.

### **Social Impact**

For the reasons outlined above it is considered likely that in the event that the rezoning of the western HSC proceeds, the eastern HSC would be likely to proceed at a far reduced scale. The employment opportunities that would be likely to be generated by the current proposal would be significantly reduced. As also outlined above in the event that the eastern HSC does not proceed, the capacity to service southbound traffic on the Highway in a convenient manner, will be lost.

In addition to the above, significant public investment in infrastructure has been made in the construction of the South Kempsey Bypass and in ensuring that the roundabouts are located and capable of servicing the proposed eastern HSC site and as such north and southbound traffic on the South Kempsey Bypass. Similar to Taree and Port Macquarie Highway Service Centres which operate economically successfully in the region with only a single centre with access for northbound and southbound traffic.

It is considered that the loss of employment and the waste of public funding on infrastructure is an adverse social effect that needs to be given due consideration in the rezoning process and Council is urged to reject the rezoning application on the basis of this negative effect on the community of Kempsey Shire and the broader community generally.

### **Flooding and Stormwater Drainage**

The proposed site for the western HSC is an unnamed riparian corridor. The site and surrounds are subject to flooding and a significant volume of stormwater drainage is directed to the site from the larger catchment and more recently, the South Kempsey Interchange. The proposed rezoning has not addressed these issues beyond a statement to the effect that an "overland flow path through the site would be provided for storm events".

Prior to Council supporting any rezoning of the subject land a complete Flood Study and Stormwater Management Plan should be prepared for the site. This Flood Study and Stormwater Management Plan should look not only at the onsite effects of the proposed development but the potential increase in Flood Impacts affecting downstream properties.

The riparian corridor affecting the site should be retained and revegetated in accordance with the principles of sound ecological and sustainable site planning. In this regard it is noted that the vegetation communities that exist on the site include Pink Bloodwood/Tallowwood/Ironbark Open Forest which has been mapped as Koala habitat along with Swamp, Sclerophyll Forest (an Endangered Ecological Community).

### **Topography**

It appears from the information provided on public exhibition that significant filling of the site would be required to establish gradients across the property that would be suitable for the establishment of the HSC and in particular to accommodate B-double vehicles as proposed. Any filling of the site is likely to have a significant impact on flooding and stormwater drainage as mentioned above and would negate the potential to retain the significant stands of vegetation that have been identified on the site, in particular the Koala habitat trees and the Endangered Ecological Community. The site is essentially a drainage corridor and the existing dam that is proposed to be filled as part of the proposal is located on this drainage corridor. The land to the west of the site rises to dense bushland and increases the bushfire risks associated with any development of this site. This matter is discussed further below.

### **Bushfire Hazard**

The proposed rezoning has not given adequate attention to the establishment of Asset Protection Zones, defendable space, safe access for fire fighters entering the site and evacuating the site nor to utility services, particularly for fire fighting purposes, nor to appropriate landscaping of the site in particular if there is a need to retain Koala habitat and the Endangered Ecological Community on the site is taken into consideration. The need to reinstate the existing vegetation along the drainage corridor would also significantly effect bushfire management.

The NSW Rural Fire Service has highlighted in their correspondence dated 19 March 2012 that the land is identified as being fire prone and any future Development Application will need to comply with either Section 79BA or Section 100B of the Rural Fires Acts 1997. It is considered likely that the development constraints that apply to the site will result in the



overall reduction in the scale development proposed on the land, reinforcing the concerns raised in the Economic Impact Assessment and Social Impact Assessment sections of this submission.

#### **Access, Traffic, Parking and Manoeuvring**

The proposed Development site is located on the existing Pacific Highway that will become the service road/access ramp for northbound traffic at the South Kempsey interchange. Whilst it is stated that preliminary discussions have been held with the Roads and Traffic Authority and a single entry exit point on the Pacific Highway is being pursued, it is considered likely that the volume of traffic that will be using this access and egress point on the service road would have an adverse impact on traffic safety and the operation of the service road.

As noted above, the site will need to be filled to achieve an appropriate gradient for heavy vehicle movements between the access and the proposed truck parking area. The costs associated with the filling of the site, given that the exercise would not result in a balance of cut to fill, is likely to render the project unviable in its current form. Further, the manner in which the riparian corridor and stormwater are to be managed is unclear, with insufficient land allocated to onsite stormwater detention and no method of stormwater treatment being identified.

#### **Potential Indigenous Archaeology**

The rezoning submission notes that "sign off" of the archaeological survey by key the stakeholders has not been received. Further, the assessment does not appear to follow either the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW or the Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW. The rezoning proposal should not proceed until the requirements of these policies have been met.

#### **Noise Impact**

The proposed rezoning relates to an isolated parcel of rural land. The establishment of the HSC as proposed is likely to have an adverse impact on neighbouring rural land as a result of noise. Appropriate setbacks to neighbouring land and the existing Pacific Highway should be established based on the potential effect of the proposed development on neighbouring properties. Similarly the noise impact on the neighbouring bushland to the west needs to be considered and appropriate setbacks established.

#### **Potential Impact on Native Flora and Fauna**

As noted elsewhere in this submission the planning proposal identifies existing vegetation communities over the site. These communities are significant and include Koala habitat and an Endangered Ecological Community. Further, this vegetation is located within a riparian

corridor which should be protected under the Water Management Act 2000. Any future development of the land would require a Controlled Activity Approval from the Office of Water. The rezoning should not pre-empt the granting of such an approval and the Office of Water should be given an opportunity to comment on the proposal prior to the matter proceeding any further.

### **Utility Services**

The Servicing Strategy for the site has not been resolved. Insufficient land is set aside under the current proposal should onsite water harvesting and/or onsite effluent disposal be required.

### **The Proposal Is Contrary To the Objects of The Environmental Planning and Assessment Act 1979**

Section 5 of the Environmental Planning and Assessment Act 1979 sets out the objects of the Act and these are:-

*(a) To encourage:*

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forest, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) the promotion and co-ordination of the orderly and economic use and development of land,*
- (iii) the protection, provision and co-ordination of communication and utility services,*
- (iv) the provision of land for public purposes,*
- (v) the provision and co-ordination of community services and facilities*
- (vi) the protection of the environment including the protection and conservation of native animals and plants including threatened species, populations and ecological communities and their habitats,*
- (vii) ecologically sustainable development*
- (viii) the provision and maintenance of affordable housing,*

*(b) To promote the sharing of the responsibility for environmental planning between the different levels of government in the state*

*(c) To provide increased opportunity for public involvement and participation and environmental planning and assessment.*

It is considered that the proposed rezoning of the subject land is contrary to the objects of the act referred to above under points (i), (ii), (iii), (iv), (v) and (vi). The proposal will have an adverse impact upon the potential conservation of the riparian corridor through the site, existing native vegetation and flora and fauna for the reasons outlined above. The rezoning does not promote the orderly and economic use and development of land. Rather, the rezoning is likely to result in an adverse economic effect that will not be made good as a result of the rezoning for the reasons outlined above.

In terms of utility services the planning proposal suggests that onsite effluent disposal will be provided and that sewerage will either be disposed of onsite or the proposal will rely on the extension of sewer services to the site. It is considered based on the current site layout that insufficient land would be available to service the extent of the development proposed and the extension of town utility services to the site is still in some doubt. On this basis alone the land should not be rezoned until such time as there is some certainty regarding servicing of the land so that development can occur in an orderly fashion.

The Planning Proposal refers to the retention of Koala feed trees or alternatively compensatory plantings. Given the extent of filling that is required for this site the retention of trees would not be a viable option. In the event that the trees cannot be retained, Biodiversity offsets are recommended. No such land has been identified. It is therefore considered that the proposal is likely to have a significant impact on threatened species, populations and ecological communities and their habitats as the development cannot proceed in an ecologically sustainable manner in the format currently being presented to Council.

For the reasons set out above Council is requested to reject to the rezoning.

Please don't hesitate to contact me should you required any further information or assistance in relation to this submission.

Yours faithfully

[Redacted Signature]

**Lin Armstrong**  
Manager Planning Services

[Redacted Contact Information]



**Lin Armstrong**

---

**From:** Barry Bradley [b]bradle@tpg.com.au]  
**Sent:** Thursday, 10 May 2012 10:58 AM  
**To:** Lin Armstrong  
**Subject:** RE: South Kempsey Service Centre - Projected Traffic Volumes

Hi Lin

The projected daily traffic volumes in 2014 from the Bypass Alliance Report were:

7,228 vpd northbound	}	Total Daily Volume = 12,402 vpd
5,174 vpd southbound		

The Alliance's Report quoted daily volumes but didn't quote AM and PM peaks, just a single peak figure.

The daily traffic volumes in my traffic report for 2011 were:

**AM Peak**

7,370 vpd northbound	Total Daily Volume = 13,550 vpd Based on AM peak
6,180 vpd southbound	

**PM Peak**

8,900 vpd northbound	Total Daily Volume = 17,600 vpd Based on PM peak
8,700 vpd southbound	

I would normally use the higher peak figure to predict daily volumes and therefore used an AADT of 17,600 vpd (two-way) on the bypass in my traffic report, which is significantly higher than the volumes assumed in the Alliance's traffic assumptions. I used the higher volumes to ensure that the roundabout would work and to demonstrate that clearly.

My traffic predictions were based on traffic surveys I had done a few years ago at the South Kempsey industrial estate access on the Pacific Highway and the details are in my traffic report.

Regards

Barry Bradley

**From:** Lin Armstrong [mailto:lin@stevensgroup.com.au]  
**Sent:** Thursday, 10 May 2012 10:22 AM  
**To:** 'Barry Bradley'  
**Subject:** RE: South Kempsey Service Centre - Projected Traffic Volumes

Thanks Barry. Could you please give me the following information based on the Alliance's Traffic Assumptions:-

1. The total assumed daily traffic volumes northbound on the highway for 2014
2. The total assumed daily traffic volumes southbound on the highway for 2014

Regards

**Lin Armstrong**  
Manager Planning Services

Direct Line: 4365 8641  
Mobile: 0420973252  
Email: [lin@stevensgroup.com.au](mailto:lin@stevensgroup.com.au)

Stevens Holdings Pty Limited | ABN: 14 002 386 450 | (Trading as Stevens Group)  
Postal Address: PO Box 3171 Erina NSW 2250 | Suite 2, 257-259 Central Coast Highway Erina NSW 2250  
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**STEVENS**GROUP

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**From:** Barry Bradley [<mailto:bibradle@tpg.com.au>]  
**Sent:** Monday, 7 May 2012 1:14 PM  
**To:** Lin Armstrong  
**Subject:** South Kempsey Service Centre - Projected Traffic Volumes

Hi Lin

As requested on Friday, I have had a look at the estimated traffic volumes that might be expected to attend the eastern service centre at South Kempsey with no western service centre and also with a western service centre in place. The details of the potential western service centre are unknown and therefore it is assumed that its attractiveness will largely result from its location to the old Pacific Highway link to Kempsey and proximity to the northbound loading ramp

The traffic volumes are as projected in the traffic report for the eastern service centre with the additional traffic departing the northbound and south bound carriageways as predicted by the traffic forecasts in the traffic report prepared for the Kempsey Bypass Alliance.

My traffic projections are as follows:

**No Western Service Centre**

Northbound Inward to Service Centre  
Centre

AM Peak Hour  
210 vph

Southbound Inward to Service

310 vph  
Approximate Total Hourly Inward to Service Centre  
= 520 vph

Northbound Inward to Service Centre  
Centre

PM Peak Hour  
250 vph

Southbound Inward to Service

350 vph  
Approximate Total Hourly Inward to Service Centre  
= 600 vph

**With Western Service Centre**

Northbound Inward to Service Centre  
Centre

AM Peak Hour  
20 vph

Southbound Inward to Service

260 vph

Approximate Total Hourly Inward to Service Centre  
= 280 vph

Northbound Inward to Service Centre

PM Peak Hour  
25 vph

Southbound Inward to Service Centre

300 vph

Approximate Total Hourly Inward to Service Centre  
= 325

vph

**Assumptions:**

- Northbound traffic departing the bypass towards Kempsey more likely to use the western service centre. However, depending on what services are available, it may be possible that some will still travel across the bypass to the eastern centre. It is assumed that 10% of northbound traffic departing the bypass towards Kempsey may still use the eastern service centre.
- Southbound traffic departing the bypass towards Kempsey more likely to use the eastern service centre. However, depending on what services are available, it may be possible that some will still travel across the bypass to the western centre. It is assumed that 10% of southbound traffic departing the bypass towards Kempsey may use the western service centre.
- Through-traffic departing from the bypass has been assumed as being 35% of through volumes in both directions. Similarly, it is assumed that 35% of traffic departing the bypass and heading towards Kempsey would access a service centre before continuing towards Kempsey, and that 35% of southbound traffic departing Kempsey and travelling to the southbound loading ramp would use a service centre. It is likely that 50% of southbound traffic departing Kempsey and travelling via the old Pacific Highway to the southbound loading ramp would use a western service centre.
- It is assumed that 90% of northbound through-traffic departing the bypass would use the western service centre and 10% of northbound through-traffic departing the bypass may use the eastern service centre if particular services are not also offered in the western service centre.
- It is assumed that 90% of southbound through-traffic departing the bypass would use the eastern service centre and 10% of southbound through-traffic departing the bypass may use the western service centre if particular services are not also offered in the eastern service centre.

**Notes:**

- Daily volumes are generally approximately 10 times the peak hourly volumes
- The traffic departing the bypass towards Kempsey were extracted from the traffic report prepared for the Kempsey Bypass Alliance for 2014. The Traffic Assessment Report for the eastern service centre volumes used traffic predictions of through volumes that were higher than 2014 figures in the traffic report prepared for the Kempsey Bypass Alliance for 2014.
- The traffic report prepared for the Kempsey Bypass Alliance for 2014 provide peak data for 2014 but did not distinguish between AM and PM peak periods.
- Because of the variables involved in the above assumptions, I cannot guarantee that the above predictions would be 100% accurate and should only be used as a guide.

Get back to me if you have any queries.

Regards

Barry Bradley





File no. NTH10/00067, CR2012/011638  
Your ref: 12.207r01v3

Mr Piran Trethewey  
TRAFFIX  
PO Box 1061  
POTTS POINT NSW 1335

Attn: Mr Piran Trethewey – Associate Engineer

Dear Mr Trethewey,

**Planning Proposal TS-118 – Proposed Highway Service Centre (West), South Kempsey Interchange, Pacific Highway (HW10), Kempsey NSW**

I refer to your email correspondence of 7 December 2012 seeking the finalisation of Roads and Maritime Services (RMS) comments in relation to the Traffic Impact Assessment submitted by Traffix Consultants to RMS in support of the abovementioned planning proposal.

As previously highlighted, the key concern for Roads and Maritime Services (RMS) is the potential for impacts upon the safety and efficiency of the state classified road network, specifically the forthcoming South Kempsey Interchange on the Pacific Highway (HW10).

RMS has undertaken a review of the Traffic Impact Assessment and accepts that the subject site has the potential to accommodate a Highway Service Centre (HSC) development in accordance with RMS requirements. RMS supports the progression of this planning proposal's intention to amend the Kempsey LEP to enable consideration of the site for a HSC development with the consent of Kempsey Shire Council.

RMS will require any development application to provide further detail of the proposed access treatment and internal layout design. Consideration should be given to removal of the existing dwelling as the occupied area may be beneficial to improving the proposed HSC function.

Any road widening / property acquisition required to accommodate the access treatment shall be provided at no cost to RMS or Council. This would include any plans of subdivision and associated survey / legal costs. Any dedication of property as public road reserve shall be in favour of the relevant roads authority at time of dedication. The necessary road and transport infrastructure improvements required as a direct result of any proposed HSC development shall be fully funded by the developer. All works within the road reserve of a classified road will require a Works Authorisation Deed (WAD) with RMS. Further information regarding the WAD process can be obtained from the RMS Private Developments website at:

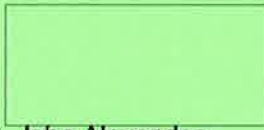
[http://www.rta.nsw.gov.au/roadprojects/community\\_environment/documents/development\\_process\\_fact\\_sheet\\_v11.pdf](http://www.rta.nsw.gov.au/roadprojects/community_environment/documents/development_process_fact_sheet_v11.pdf)

**Roads & Maritime Services**

RMS support of the planning proposal does not provide development concurrence to the current concept design. It is emphasised that the comments provided above relate to the current planning proposal and the submitted information regarding the amendment of the LEP. They are not to be interpreted as binding and the RMS position may change subject to formal assessment of any future development application submitted to the appropriate consent authority.

Should you have any questions regarding the above comments then please contact Matt Adams on 6640 1344 or via email at: [development.northern@rms.nsw.gov.au](mailto:development.northern@rms.nsw.gov.au)

Yours sincerely,



John Alexander

A / Regional Manager, Northern Region

4/2/13