



Permit a Proposed Highway Service Centre at South Kempsey by inclusion in Schedule 2 of the Kempsey LEP 1987

Proposal Title :	Permit a Proposed Highway Service Centre at South Kempsey by inclusion in Schedule 2 of the Kempsey LEP 1987		
Proposal Summary :	The planning proposal seeks to include Lot 2454 DP 610363 into Schedule 2 of the Kempsey LEP 1987 in accordance with Clause 35 which allows development for additional purposes. This will allow the proposed construction of a highway service centre on rural-zoned land at South Kempsey to service users of the Pacific Highway.		
PP Number :	PP_2012_KEMPS_001_00	Dop File No :	12/01332

Proposal Details

Date Planning Proposal Received :	11-Jan-2012	LGA covered :	Kempsey
Region :	Northern	RPA :	Kempsey Shire Council
State Electorate :	OXLEY	Section of the Act :	55 - Planning Proposal
LEP Type :	Housekeeping		

Location Details

Street :	556 Pacific Highway		
Suburb :	South Kempsey	City :	Kempsey
		Postcode :	2440
Land Parcel :	Lot 2454 DP 610363		

DoP Planning Officer Contact Details

Contact Name : Jenny Johnson
Contact Number : 0266416614
Contact Email : Jenny.Johnson@planning.nsw.gov.au

RPA Contact Details

Contact Name : Georgia Rayner
Contact Number : 0265663247
Contact Email : georgia.rayner@kempsey.nsw.gov.au

DoP Project Manager Contact Details

Contact Name : Greg Yeates
Contact Number : 0266416608
Contact Email : Greg.Yeates@planning.nsw.gov.au

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Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :	Mid North Coast Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :	0.00	Type of Release (eg Residential / Employment land) :	Employment Land
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment : **The Department of Planning and Infrastructure Code of Practice in relation to communication and meetings with Lobbyists has been complied with to the best of the Region's knowledge.**

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment : **Northern Region has not met any lobbyists in relation to this proposal, nor has Northern Region been advised of any meeting between other departmental officers and lobbyists concerning this proposal.**

Supporting notes

Internal Supporting Notes :

External Supporting Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The objective and intended outcomes of the planning proposal are adequately expressed for the area of the proposed amendment to Kempsey LEP 1987.**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The planning proposal provides a clear explanation of the intended provisions to achieve the objectives and intended outcomes.**

The draft amendment proposes to:

- 1) list 556 Pacific Highway - Kempsey into Schedule 2**
- 2) list "Highway Service Centres" definition in Clause 5 (as defined in the Standard Instrument).**

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These amendments will allow for the development of a Highway Service Centre where it would otherwise be a prohibited use in the 1(d) Rural Investigation zone.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA : **1.2 Rural Zones**

* May need the Director General's agreement **1.5 Rural Lands**

4.4 Planning for Bushfire Protection

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP (Infrastructure) 2007

SEPP (Rural Lands) 2008

e) List any other matters that need to be considered :

Council resolved to include Lot 2452 DP 532345 which is adjoining land, as part of this planning proposal, with a view to consolidating a gateway to South Kempsey. Proposed uses for the lot were not specified and it has not been separately addressed within the planning proposal.

Discussion with Council (13/01/2012) highlighted that there was no supporting information to make a clear assessment of the adjoining site. Therefore the proposal only addresses Lot 2454 DP 610363 and not the adjoining lot Lot 2542 DP 532245 which would need to be addressed through a separate process. Council will confirm this through a new cover letter.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Locality maps were provided as part of the planning proposal. As the proposal is not a rezoning, no zoning map will be required as part of the amendment.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The planning proposal has indicated a 28 day public exhibition period for community consultation, however the Gateway will determine the time frame required for exhibition. Community consultation will be in accordance with the DoP's 'A Guide to preparing an LEP'.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

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Proposal Assessment

Principal LEP:

Due Date : **December 2012**

Comments in relation to Principal LEP : **The Comprehensive Kempsey Shire LEP is in preparation under the priority list LEP program, however is unlikely to be suitable for public exhibition for some time. Amendments to the existing Kempsey LEP are required to allow development supported by the Mid North Coast Regional Strategy (MNCRS) to proceed.**

Assessment Criteria

Need for planning proposal : **The planning proposal is an outcome of the identification of highway service centres at strategic locations along the full length of the Pacific Highway, which is reflected in section 117 Direction 5.4 - Development of Commercial and Retail Development along the Pacific Highway, North Coast.**

The subject land is located in close proximity to the proposed South Kempsey interchange for the Kempsey Bypass, highlighted in the MNCRS as a location for a highway service centre. However the site is zoned 1(d) Rural (Investigation) land which prohibits service stations, tourist facilities, commercial premises, recreational facilities and refreshment rooms. All of these uses are defined in some way as uses within a 'Highway Service Centre' as described in the Standard Instrument dictionary.

To allow for the development of a Highway Service Centre to proceed at this location in this zone requires the development to be listed in Schedule 2 of the Kempsey LEP 1987.

A rezoning option through the Comprehensive LEP process would cause an unacceptable delay as the zone to be applied to the site under the Comprehensive LEP process has not yet been resolved. The delay while waiting for the LEP to be made that would bring the rezoning into effect would not provide for the timely construction of a highly beneficial development for the Kempsey area and for users of the Pacific Highway once the Kempsey Bypass is complete.

Therefore the proposed changes to the current LEP are the most appropriate means of achieving the desired outcomes for the proposal.

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Consistency with strategic planning framework :

The proposal is consistent with the MNCRS. One of the key actions for economic development and employment growth within the MNCRS is that a highway service centre may be located at the southern interchange of the Pacific Highway Bypass at Kempsey.

The proposed Highway Service Centre at Kempsey is consistent with the S117 Direction 5.4 - Development of Commercial & Retail Development along the Pacific Highway, North Coast. The table listed in this direction specifies that a highway service centre can proceed in the Kempsey LGA at the South Kempsey Interchange. Initial discussion with the Roads and Maritime Services (former RTA) are that a service centre would be able to be integrated into the Kempsey Bypass which is currently under construction.

The planning proposal is relevant to SEPP (Infrastructure), SEPP (Rural Lands), SEPP 44 Koala Habitat Protection and SEPP 55 Remediation of Land. SEPP (Infrastructure) and SEPP 55 are consistent with the planning proposal.

SEPP 44

An ecological assessment identified the land as containing koala feed trees. A requirement of the Gateway Determination would be to complete the stage two additional ecological review which will address SEPP 44 provisions.

SEPP (Rural Lands)

The proposed development does reduce the available agricultural land on the subject site. However the site itself is quite small in size and has little to no agricultural value. The surrounding area still maintains rural practices and will not be reduced by the proposed development.

The planning proposal is inconsistent with s117 Directions 1.2 Rural Zones, 1.5 Rural Lands, and 4.4 Planning for Bushfire Protection.

The following Directions warrants separate consideration.

1.1 Business and Industrial Zones

The direction applies as it affects land within a proposed business or industrial zone. In most instances this would make the planning proposal inconsistent with the direction. However as the land has been specifically identified for an employment generating business (consistent with the MNCRS) the proposal is consistent with the Direction's objectives.

1.2 Rural Zones

The subject land is zoned 1(d) Rural (Investigation). The planning proposal is considered to be inconsistent with this direction as the land will no longer be available for agricultural activities and increases the permissible density of the rural land. The inconsistency is considered to be justified as the MNCRS specifically identifies the land for a highway service centre. The reduction in rural land is of minor significance as the subject lot is too small for viable agricultural pursuits.

1.5 Rural Lands

The planning proposal is not considered to be consistent with this direction as it affects land within an existing rural zone. The land will no longer be able to support agricultural practices which are inconsistent with the Rural Planning Principles of the State Environmental Planning Policy (SEPP) (Rural Lands). The inconsistency is considered to be justified as the MNCRS specifically identifies the land for a highway service centre. The reduction in rural land is of minor significance as the subject lot is too small for viable agricultural pursuits.

4.4 Planning for Bushfire Protection

The planning proposal is not considered to be consistent with this direction as it is in close proximity to land mapped as bushfire prone land and the land itself is partially affected by bushfire prone land. The direction requires that Council consult with the Commissioner of the NSW Rural Fire Service following receipt of a Gateway Determination. It is considered

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Environmental social economic impacts :

that the planning proposal will not raise significant issues in regard to this matter as a preliminary bushfire review has been completed. The Council will consult with the NSW Rural Fire Service following Gateway Determination.

A preliminary Ecological Review has been undertaken for the proposal and a number of recommendations have been made once development of the site occurs. These recommendations would be addressed at DA stage.

The Ecological Review highlighted that koala habitat was present on the subject site however this should not be impacted upon through the proposed development.

As this site is covered by a Koala Plan of Management which applies to a large part of Kempsey Shire under SEPP 44 an assessment would normally be required at DA stage. However the applicant has highlighted that a stage two additional ecological review needs to be prepared and this should be a requirement of the Gateway Determination.

Compensatory measures are proposed to address the removal of some scattered open forest areas. Protection for the area of Swamp Sclerophyll Forest (EEC) which is currently in a highly degraded state is also addressed in the planning proposal.

The Kempsey Bypass is currently under construction which includes the construction of the South Kempsey interchange which will provide a feeder road to the service centre. Any delays in finalising the development of a Highway Service Centre in this location would not achieve opportunities for safe travels on the Pacific Highway. These centres are necessary to allow Pacific Highway users to take the necessary fatigue breaks, restock on fuel and food for extended trips up and down the highway.

This Highway Service Centre will greatly benefit users of the Pacific Highway by providing suitable facilities to manage fatigue and potentially reduce significant social impacts that fatigue related accidents have on the community.

Assessment Process

Proposal type : **Consistent** Community Consultation Period : **28 Days**

Timeframe to make LEP : **6 Month** Delegation : **DDG**

Public Authority Consultation - 56(2)(d) : **NSW Rural Fire Service**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

Flora

Fauna

If Other, provide reasons :

As this site is covered by a Koala Plan of Management which applies to a large part of Kempsey Shire under SEPP

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44 an assessment would normally be required at DA stage. However the applicant has highlighted that a stage two additional ecological review needs to be prepared and this should be a requirement of the Gateway Determination.

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Kempsey Council - Planning Proposal Proposed Highway Service Centre - Covering Letter.pdf	Proposal Covering Letter	Yes
Kempsey HSS Planning Proposal Consolidated 5 Dec Rev A.pdf	Proposal	Yes
Council Report Attachments.pdf	Study	Yes
Full December 2011 Council Report .pdf	Study	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **1.2 Rural Zones
1.5 Rural Lands
4.4 Planning for Bushfire Protection**

Additional Information : **It is recommended that:**

1. The planning proposal (relating to Lot 2454 DP 610 363 only) be supported;
2. The planning proposal is to be exhibited for a period of 28 days;
3. The planning proposal should be completed within 6 months;
4. The Director General (or an officer of the Department nominated by the Director General) agrees that the inconsistencies with s117 Direction 1.2 Rural Zones, 1.5 Rural Lands are justified and accept that 4.4 will be resolved through consultation with the NSW Rural Fire Service before public exhibition;
5. A stage 2 additional Ecological Review is required to be prepared addressing SEPP 44 provisions.

Supporting Reasons : **The inclusion of Lot 2454 DP 610363 into Schedule 2 of the Kempsey LEP 1987 in accordance with Clause 35 and the insertion of 'Highway Service Centres' into Clause 5 - Definitions will allow the proposed construction of a highway service centre on rural-zoned land which would otherwise not be permissible in that zone.**

Lot 2452 DP 532245 (the adjoining lot, as sought to be added by Council resolution into the planning proposal) has been excluded from this proposal as there is no supporting information to make a clear assessment of that site and no indication of the intended land use(s). Lot 2452 DP 532245 could be dealt with through a separate Planning Proposal.

Signature:



Printed Name:

GREG YEATES

Date:

13/01/2012